the question of the audit of Local Funds in which he strongly recommended the centralisation of audit.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I wish to know whether the report of the working of the Account Office by Mr. Dukoff Gordon is available.

MR. K. GEORGE (*Financial Secretary to Government*): Mr. Gordon's report is available. It is purely a technical document and I do not know whether anybody who is not a specialist in audit and accounts will have much use of it.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I take it that Mr. George has no objection to give a copy?

MR. K. GEORGE (*Financial Secretary to Government*): I have no objection.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What about the Efficiency Audit Officer's report under discussion?

MR. K. GEORGE (*Financial Secretary to Government*): I regret I do not agree with the Efficiency Audit Officer. He is no specialist in accounts.

MR. K. P. RAMAN PILLAI (*Quilon*): I beg to withdraw the motion.

The motion was by leave withdrawn.

PRESIDENT: The question is that a sum not exceeding Rs. ·92 lakh be granted under Demand VIII General Administration—Account Office. I take it that the House sanctions it entirely.

The grant was made.

DEMAND IX.—ADMINISTRATION OF JUSTICE.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I beg to move for a grant not exceeding Rs. 7·24 lakhs under Demand IX—Administration of Justice.

Motion 192.

MR. K. P. RAMAN PILLAI (*Quilon*): Sir, I beg to move that the allotment of Rs. 6,456 for process peons be reduced by Rs. 1,456. Sir, there apears to be a slight mistake in printing this motion. It relates not to process peons alone but peons in general. It will be seen from page 63 of the budget estimate that a sum of Rs. 6,456 is provided for seven process peons besides 43 ordinary peons. When I went through the estimate, I thought that the provision for 43 peons was rather too much; and subsequently when I went through the report of the Salaries Committee, I found that they recommended a reduction in the staff of peons. Of course in making their recommendation they reduced the number of peons from 53 to 40 and they suggested that they might be distributed as follows:—

Chief Justice	...	7 Peons.
Puisne Judges, 5 each	...	15 Peons.
Office	...	11 Peons.
Registrar	...	3 Peons.
Court Peons 2, each	...	4 Peons.

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[Mr. P. K. Narayana Pillai.]

This is besides the several process peons on Rs. 7 and Rs. 8 each. I do not see any reason why this Council should not adopt the recommendation of the Salaries Committee which consisted of two of the prominent members of this Council and a member of the Ex-Council with the Financial Secretary as a member and the Efficiency Audit Officer as its President. I would consider that the provision of seven peons to the Chief Justice is somewhat too much, because the Financial Secretary told us the other day that they were not even useful for pulling punkahs. If that be so, what these seven peons should do to help in the administration of justice I cannot for my part see. So I press the motion to suggest that the recommendations of the Salaries Committee should be given effect to by making this reduction of Rs. 1,456.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, from what Mr. Raman Pillai said, I think there is no material difference between the recommendations of the Salaries Committee and the number of peons that have now been sanctioned. The High Court has, in its establishment, 43 peons and 7 process peons. Mr. Raman Pillai does not urge that the number of process peons is too many, because everybody knows what those peons are intended for. Then, so far as the other peons are concerned, instead of 40 we have now 43; and the arrangement that has been made in the High Court is on the lines recommended by the Salaries Committee, *viz.*, 7 peons for the Chief Justice, 5 for each of the five Puisne Judges. As recommended by the Salaries Committee, the Registrar has 3 peons. I believe there are three peons deputed to attend on the Deputy Registrar and the Manager *viz.*, to carry papers from the office to the clerks and from the clerks to the office and there are 15 peons to preserve order, to take instructions, I mean, orders from the Bench and, I believe, also to go to the library, carry the books which the members of the Bar want from the library to them and carry them back to the library. The peons help in the administration of justice at least to this extent. So that the number of peons is limited to 15. There is no material difference between the number 40 and the number 43, and I do not think Mr. Raman Pillai will make any serious demand to curtail the number of peons by three.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The motion comprises the process peons also. As such, I wish to add a word in support of the motion. Mr. Subba Aiyar did not refer particularly to the process peons and contented himself by saying that everybody knows the sort of their work. Now Sir, we hear complaints with respect to the delay in the disposal of cases. Occasionally we condemn the incapacity of the presiding officers, occasionally, as has been hinted by Mr. Subba Aiyar—himself forgetting the camaraderie that exists between himself and us since he represents Government which is the greatest party in the State and we represent private individuals—we also contribute to the delay in the disposal of cases. But I fear that, on a correct diagnosis of the situation, it may be seen that, more than anybody else, the process

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peons do contribute to the delay of the cases by the chronic remissness in their work. In the matter of serving summonses how much time is being taken up, is a question that evidently is not very seriously taken into consideration by those persons who are responsible for the discharge of this work; and we frequently see that when people think cases are closed, the process peons, by the nefarious way in which they effect service of summons, enable defendants to come in and set aside *ex-parte* decrees. That is the sort of very irregular work done by the process peons. Practically patience is knocked out of the litigant population.

MR. S. KRISHNA AIYAR (*Mavelikara* cum *Kartikapalli*): May I know from Mr. Narayana Pillai whether the High Court serves any summons through its own process peons?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): No, not to any noticable extent. So far as I am aware all the processes of the High Court are being served through the subordinate courts. Sir, process peons, as a class, call for a very severe scrutiny. So, I am opposing this provision *re*: the number of the process peons. All the process peons in the various departments of the civil courts come in for a considerable share of criticisim. Then it may be questioned whether by reducing the amount that is sanctioned in this behalf to keep up this body of process peons, we can improve the situation. Well, I would submit that when the emolument that is to be earned by the process peons goes down, naturally these process peons will vacate their offices and a better variety of process peons may be organised. I want to draw the attention of Government in this particular respect to have a comparison of the number of processes served in the civil courts with the number of processes effectually served by the Police Department. So far as the High Court is concerned, certainly the necessity for so many process peons seems not to arise at all. So I support the motion of Mr. Raman Pillai.

MR. K. P. RAMAN PILLAI (*Quilon*): The Law Member has been under some misapprehension in submitting that I did not object to the process peons. I have stated at the outset that my motion is in respect of the provision for 50 peons; and I have proposed a reduction of Rs. 1,456 from the total allotment in that respect. As already pointed out, there seems to be no reason why these process peons should exist. At any rate, I am obliged to think that this small reduction is quite possible.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to ask Mr. Raman Pillai whether in the Madras High Court there are no peons for ornamental purposes. I will explain. When a Judge comes, peons go in front of him, others behind him. So I am asking Mr. Raman Pillai if he is aware of it.

MR. K. P. RAMAN PILLAI (*Quilon*): My answer is that ornaments may be provided for the remaining peons. (*Laughter.*)

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): The question is not answered.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Mr. Raman Pillai did not say that he seriously objected to the process

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[Mr. T. K. Velu Pillai.]

peons and therefore it was that I did not refer to it. I believe that every member of the bar here knows that in the case of respondents they generally file objection petitions. Notice of such petitions has to be sent to the appellant. They have to put in affidavits. Notice is given to the other side and that notice has to be served. Cases that are to be taken up, though not boarded, have to be notified to the vakil. These notices have to be served. All these matters concerning the actual working of the High Court are done by the process peons. They do not serve processes upon witnesses and upon respondents. These are served through District Courts. So without the process peons, I do not think any work can get on.

MR. S. KRISHNA AIYAR (*Mavelikara* cum *Kartikapalli*) : Does Mr. Subba Aiyar say that they are necessary for actual process work?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Yes.

PRESIDENT : Mr. Raman Pillai, do you press the motion to a division?

MR. K. P. RAMAN PILLAI (*Quilon*) : Yes, Sir.

The motion was put to the vote and it was lost, 12 voting *for* and 22 voting *against*.

MR. M. N. PILLAI (*Trivandrum*) : Sir, I demand a poll.

Mr. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*) : I also demand a poll.

The poll was taken.

AYES 11.

1 Mr. A. Hoogewerf
2. ,, C. P. Kochukunju Pillai
3. ,, Tariatu Kunjitomman
4. ,, V. Kunjukrishna Pillai,
5. ,, M. R. Madhava Variar.
6. ,, K. C. Mamman Mappillai.
7. Mr. P. K. Narayana Pillai.
8. ,, J. John Nidiry.
9. ,, M. N. Pillai
10. ,, N. Padmanabha Pillai.
11. ,, K. P. Raman Pillai.

NOES 24.

1. Mr. I. C. Chacko.
2. ,, T. M. Chidambaratanu Pillai.
3. ,, Paul V. Daniel.
4. ,, R Dhanukoti Pillai
5. ,, K. George.
6. ,, L. C. Hodgson.
7. ,, M. K. Khadir Pillai.
8 Rao Bahadur K. A. Krishna Aiyangar.
9. Mr. R. Krishna Pillai.
10. Dr. N. Kunjan Pillai.
11. Dewan Bahadur Dr. P. N. Lakshmanan.
12. Mr. T. Lakshmana Pillai.
13. Mr. John Mackie.
14. ,, K. V. Natesa Aiyar
15. ,, S. Paramesvara Aiyar.
16. ,, K. C. Raja Raja Varma.
17. ,, T. P. Ramasubba Aiyar.
18. Rao Bahadur K. V. Rangaswami Aiyangar.
19. Mr. S. C. H. Robinson.
20. ,, V. Subba Aiyar.
21. ,, S. Subrahmanya Karayalar.
22. ,, Trivikramar Vasudevar.
23. ,, A. J. Van Ross.
24. ,, T. K. Velu Pillai.

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Mr. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*) : I wish that the names of the neutrals also may be recorded.

PRESIDENT: I have no objection.

NEUTRALS 3.

1. The Rev. Fr. Kuriakose Vettikkapalli.
2. Mr. G. Parameswaran Pillai,
3. Mr. N. Ramakrishna Pillai.

MR. T. KUMARA PILLAI (*Eraniel* cum *Vilavankod*): I was not here and so I was not able to give my vote.

The motion was lost.

Motion 193.

MR. K. P. RAMAN PILLAI (*Quilon*) : Sir, I beg to make the following motion :—

193. To omit the allotment of Rs. 4,236 for temporary clerks.

This provision in the budget is made evidently to keep the Third Bench going. Even granting that there is necessity for a Third Bench in the High Court, I submit this temporary staff is not necessary. I further contend that neither the work of the Third Bench—

PRESIDENT: I see that there are two identical motions, *viz.*, 193 and 194. The latter is by Mr. Madhava Variar. Mr. Raman Pillai, you may go on.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Patanamtitta*): Yes. He may move this motion.

MR. K. P. RAMAN PILLAI (*Quilon*): Neither the work of the Third Bench nor the work of the High Court has justified the continuance of this Third Bench. In fact, it ought to have been abolished immediately after its creation. (*Laughter.*) I should like to hear from the Law Member what the justification for creating this Third Bench was, if it was on account of the arrears of the High Court, what those arrears were due to, and whether the number of appeals pending in the High Court and the volume of work available in the High Court have not gone down to the level where it was before the creation of this Third Bench. On looking at the statistics, I find that the number of first and second class appeals pending at the time of the creation of the Third Bench was 1,317. It was only 911 in 1089 and 1,117 in 1090. We find that after the constitution of the Third Bench, the file again went down to 967 in 1093 and it was only 1,167 in 1094. I wish to know what justification there was for the retention of the Third Bench in the year 1093. It again went down to 917 in 1096 which was only 6 appeals more than it was in 1089. In 1097 it suddenly went down to 107. I submit these fluctuations are caused by the tenacity of the Third Bench to perpetuate itself, owing to the unwillingness of the Judges to vacate their offices. Had they been told that in case the arrears were not cleared within a specified time, they would be either sent away or others would be put in instead, there would not have been all these

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[Mr. K. P. Raman Pillai.]

inexplicable fluctuations in the number of disposals of cases. It will be instructive to hear from the Law Member what is the average number of first and second appeals filed in the High Court during the six years that preceded the appointment of the Third Bench and the six years that succeeded. We should like to hear whether there is any difference, and if so, what. It will also enlighten the House to know what the average number of cases for disposal was during these two periods 1092 to 1097 and 1086 to 1092 and the arrears that accrued from year to year. Information about the number of cases pending disposal would also allow the House to decide whether there was any justification for continuing the Third Bench. Whether they were doing good work and whether they have justified their existence in the High Court will be made clear from this, if the Law Member would furnish the percentage of disposals during these two periods. I fear the House will be in a position to see that the disposal was incommensurate with the number of judges appointed. Taking all these facts into consideration, I submit the continuance of the Third Bench is really an unneccessary burden on the taxpayer. The High Court thinks otherwise and the Law Member seems to agree with whatever recommendations they make. No doubt in a case or a suit properly going up before them, their judgment unfortunately is final. (*Laughter*). But in a matter affecting public money, the High Court are still the servants of the public. No doubt they have the right to take away the liberty or the life of any citizen provided he goes within the grips of the law. (*Laughter.*)

PRESIDENT: I think you are not in order, when you reflect upon a Court of Justice having jurisdiction in Travancore.

MR. K. P. RAMAN PILLI (*Quilon*): Under what standing order?

PRESIDENT: Rule 34 of the general rules of procedure. You are challenging the decision of the High Court. I do not think that it is right.

MR. K. P. RAMAN PILLAI (*Quilon*): I am not challenging it.

PRESIDENT: You said 'unfortunately'. I think that is a reflection.

MR. K. P. RAMAN PILLAI (*Quilon*): I only submit that I do not make any reflection, so far as the judgments are final.

PRESIDENT: Then there is no meaning in saying that they are 'unfortunately' final.

MR. K. P. RAMAN PILLAI (*Quilon*): Let me be allowed to point out Sir, that I do not make any reflection upon the conduct of any court of justice. I submit that there is no particular conduct of the High Court before the Council. I simply submitted that all the judgments of the High Court are considered to be final and the financial recommendations they make are matters involving additional expenditure.

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PRESIDENT: But since you have, I must object to it. You must withdraw.

MR. K. P. RAMAN PILLAI (*Quilon*): I have no objection.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Was it used in a Pickwickian sense? (*Laughter.*)

MR. K. P. RAMAN PILLAI (*Qu ion*): When matters relating to additional expenditure are concerned, I submit this House ought to be considered to have greater weight than the High Court itself. I therefore submit that this allotment for the provision of additional clerks be omitted.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): There is prevalent an impression in certain quarters that the High Court is not as good as it used to be. From the statistics placed before the House by Mr. Raman Pillai, the irresistable conclusion arises that there is more scope for work and less scope for pay being disbursed to High Court Judges. I am of opinion that in a State like Travancore four judges ought to be sufficient; and if the recruitment is made on proper and healthy lines, if men with sufficient energy, experience and character are picked out and raised to seats in the High Court, whether from the service or from the bar, the Judges of the High Court will be able to do very much more work. As my friend Mr. Raman Pillai rightly pointed out, an institution when once started goes on. The temporary High Court Bench has become, so to speak, a fixture. As the representatives of the taxpayers, we have a right to tell the High Court that the cost of salaries to highly paid judges should be as small as possible, consistently, of course, with efficiency. The way in which cases are boarded, I think, is one reason why judges are not able to get through their work and vakils also are not able to do their work properly. I know personally of cases which had been adjourned fifteen or sixteen times after they had once been boarded. This is due to the practice of boarding a large number of cases every day irrespective of the number of cases that may be argued and disposed of. There is some tradition in Travancore which enables judges to hope that once they go and occupy a seat on the High Court Bench, it is derogatory to their prestige to go down and revert to their original position. The matter of the number of judges becomes more important when we have to consider the chances of raising the pay of the High Court Judges. I may observe that when the pay of other departmental heads is being raised from time to time, the Judges of the High Court have been drawing a stationary salary. I am not advocating an immediate rise of pay, but the question has to be considered by the Council. It can only be done on the express understanding that there should be only four judges. Another difficulty in our High Court is that our present-day judges are too kind to their subordinate judges. As I observed on a former occasion, the old type of judges used to make severe strictures on erroneous views of subordinate judges. But however carefully we may analyse the judgments of the High Court now-a-days, we find only soft words said about them and on the

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[Mr. T K. Velu Pillai.]

errors of law committed by the subordinate judges. The result is bad enough to the litigant public, because there is the further fact that even though a subordinate judicial officer writes only bad judgments, that fact does not affect his promotion, because it goes by seniority; and in Travancore, it is seniority alone that counts. I think to some extent the necessity of maintaining a Third Bench depends on this; but it can rightly be traced partly to the inferior staff of the judicial service getting a little indolent and careless. Whether a judgment is well-written or ill-written, or in accordance with the law as laid down by the High Court, it does not matter. The High Court often hears of such things when learned vakils address them. The difficulties are enhanced by the careless manner in which the subordinate judges write their judgments. The subject requires examination.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Before I go into the question of statistics, I wish to draw the attention of this House to the peculiar fact, that our High Court occupies a more responsible position so far as the administration of justice is concerned than even any of the British Indian High Courts. It is a matter well known that the decision of the High Court is final and it is not open to revision by any other tribunal. Therefore the High Court, before it records its decision on any particular issue or case, has to hear patiently what the counsel appearing on both sides have to say and bestow considerable thought over the question. They have thus not only to satisfy themselves that they are doing justice, but also to satisfy the litigants that justice is meted out after hearing what the parties have to say.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I know whether Mr. Subba Aiyar suggests that all this is not done by High Courts elsewhere?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes, it is done. They too hear counsel patiently. What I say is that the judgment of the High Court here is not open to revision on any question of law by any other tribunal. That is the point. I never said that High Courts elsewhere have no responsibility. I meant to say that, if they commit a mistake, there is a further appeal.

MR. K. P. RAMAN PILLAI (*Quilon*): Is the Law member aware that we have what was known as Royal appeals?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Formerly, there were Royal appeals. But they are the present-day Full Bench cases. Royal appeals are heard by a Full Bench of three judges. What is done is, the Full Bench recommends to His Highness the Maha Raja to decide the appeal in the manner recommended in their judgment. These appeals are included in the statistics also.

MR. T K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I ask if the right of appeal from the decision of the British Indian courts is not subject to severe restrictions?

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MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. But whatever may be the restrictions, there *does* exist the right.

MR. K. P. RAMAN PILLAI (*Quilon*): Is that one and the same thing that we had before this Full Bench?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No. Originally a Royal appeal was heard by a Full Bench. From the decision of a District Judge an appeal lay to the High Court which was heard by a single judge and an appeal lay from his decision to a Full Bench of three Judges. This was called a Royal appeal and was subject to confirmation by His Highness. An appeal whose value is not less than Rs. 5,000 is treated now as a Full Bench appeal. The decision becomes final only when it receives the assent of His Highness the Maha Raja. I am right in saying that the responsibility of our High Court is more onerous. As I said last year, the competition in the Bar is getting keener and keener every day, and therefore every member of the Bar, and particularly the juniors, have to work hard.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I wish to ask whether the older generation of Vakils had not been doing their duty satisfactorily.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With all deference to the older members of the Bar, I would say that there were not so many vakils and so many Law Journals and Reports, and all that, then.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Is it because the law Journals increase that the number of decisions of the High Court increase?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Everywhere the decisions of the High Courts are increasingly reported day after day. We are now-a-days in a position to get a precedent for any position that one wishes to argue in the High Court. Every member of the Bar is at his wit's end to support his case by precedents and these precedents have to be examined by the High Court before they record their opinion and this means time. When I began to practise I know that there were only five judges in the High Court, Madras, and now there are twelve. Even second appeals on concurrent findings of fact take time now-a-days.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Is it not possible for a judge to regulate the argument?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): They have got that right. I believe every member of the Bar practising in the High Court will know that, however efficient a judge may be, when he hears a question of law, he has to know if it arises in the case and for this purpose the judges have to know the facts and therefore a shrewd lawyer tries to place the facts in a particular manner so that a question of law may be raised and ultimately may be tried. But to know whether there is any such point arising in the case, the judges have to hear him on the question of fact.

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[Mr. V. Subba Aiyar]

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to ask the Law member if he has not come across cases in which judges refused to hear facts in concurrent cases.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): A capable judge would be able to do so. But he could not ordinarily do it. As a matter of fact when a judge begins to question the appellant's vakil as to how a question of law arises, he says: "Hear me for a while and then Your Honour will be satisfied that a question of law does arise". It is only after hearing some time longer that it will be possible to say whether a question of law arises or not. In cases of revision by a single judge or by a Division Bench of two judges, much more time is taken up now than what used to be the case in the olden days. A judge is bound to hear the counsel. A judge cannot snub the members of the Bar or gag them. He has to see whether the vakil can make out any point in favour of his client as his decision is final.

M . T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): As a matter of personal explanation I rise to say one word. Mr. Subba Aiyar has used the words, "snub the vakil". I shall be the last man to use the word. I am sure our Vakils are so respectable and independent that they will not permit themselves to be snubbed.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Now then, the disposal of the cases takes much longer time than in the olden days.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I take it that Mr. Subba Aiyar's line of argument is that, as we go on, in future there will be necessity to increase the number of judges?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): We cannot prophesy about the future. The increase will depend upon the number of cases.

MR. K. P. RAMAN PILLAI (*Quilon*): Is it the Law Member's argument that the number of judges should be increased according to the increase in the number of Law Journals?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It will depend on the increase in the number of cases and upon the increase in the length of counsel's argument. The High Court must be supposed to be alive to their sense of responsibility and should be allowed independence in the matter of disposal. It cannot be said that an officer who is raised to the position of a High Court Judge will try to continue there simply for the purpose of continuing as a judge of the High Court and not for disposing of the cases. That apart, I challenge every member to say whether for the last three years any judge of the High Court left court earlier than before 5 P. M. and sat later than 11-30 A. M. They sit for a long time and do more than a full day's work. They have to do departmental work also. I may say that, when a modification was proposed in the High Court Regulation to invest the Chief Justice with some power, there was a lot of opposition

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in this House. I therefore take it that this House is agreed that the control of the subordinate courts should vest in the High Court as a body and this also takes some time. Mr. K. P. Raman Pillai wanted me to go into the statistics for 1081 to 1090. I do not think I need trouble the House as Mr. Raman Pillai has the statistics volume in his hand and he has not been sparingly using the same.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): The facts are important and the statistics are required by every member.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Every member has got a statistical volume with him. However, I will give the figures for the last 4 or 5 years. At the close of 1094 the number of first appeals pending was 629, of 1095, 572; 1096, 457; 1097, 610, and up to 18th Karkatakam this year, 859. So far as second appeals objection petitions and civil miscellaneous appeals are concerned, the number disposed of was 761 in 1094, 720 in 1095, 925 in 1096, 721 in 1097. Of late, the revision petitions and miscellaneous petitions have also increased and from the fact that 1649 petitions were disposed of in 1094, 1625 in 1095, 1785 in 1096, and 1678 in 1097, it will be found that work has increased in this direction also. Of the above, the civil revision petitions disposed of were 239 in 1095, 402 in 1096 and 312 in 1097.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I ask Mr. Subba Aiyar what is the percentage of revision petitions presented to the High Court that have been allowed?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have not noted the exact percentage but I may refer the member to the statistics volume which contains the information. So far as criminal work is concerned, there is also an increase and they include referred cases and revision petitions also. Going to the duration of appeals disposed of, we find that, at the end of 1094, there were 629 first appeals, of which 178 were more than one year old, 33 more than two years old, 5 more than three years old and 22 even more than four years old. At the end of 1097, the number of old appeals pending was considerably reduced and so far as first appeals were concerned, the number more than three years old was *nil*, while the number of first appeals more than two years old was only eight. There was no second appeal which was more than one year old, so that the work in the High Court was practically current. With regard to the boarding of a large number of cases which Mr. T. K. Velu Pillai referred to, I may remind him that it is only done for the purpose of seeing that the Judges have the requisite number of cases to engage them till evening. If there is a smaller number of cases posted, it may be that owing to the illness of a Vakil or to other cause, the cases for the day may have to be adjourned and the Judges will have to go away earlier for want of work to engage them. In order to see that such a contingency does not arise, a very large number of cases is posted for the same day.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I ask the Law Member whether this House ever suggested that Judges should not leave the court before 5 P. M?

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[Mr. P. K. Narayana Pillai.]

Mr. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Though the suggestion was not pointedly made, it was stated in the House that the amount of work turned out is not enough. If even after working till 5 P. M. the work is subjected to so much criticism, I do not know what Mr. T. K. Velu Pillai will say if they rise earlier. At the end of 1097, it will be found that the number of appeals more than two years old was only eight.

But when we come to 1098, the number of appeals pending now has considerably gone up, and every member of the House knows the reason for that. An important appeal engaged the attention of the three judges of the High Court for about four months. I believe it took about a month more and the result of it is that on the 18th Karkatakam 1098 we have 859 first appeals and 736 second appeals pending. I believe this is the largest number for the last 5 or 6 years that was pending before the High Court. There are 25 appeals more than 2 years old and 3 more than 3 years old. So that it is absolutely necessary that the Third Bench should continue and I daresay that, but for the fact that I referred to, namely, three Judges had to work in a single case for over four months, the work in the High Court would have become current.

Now at any rate, we see the pendency is very high and there are appeals which are more than two and three years old. In these circumstances I do not think the House will say that the necessity for the continuance of the Third Bench is not made out. It is rather hard upon the litigant public to say that their cases will be boarded five years later. I hope the House will have no hesitation to reject this motion.

The House adjourned for lunch at 2-5 P. M. and re-assembled at 3 P. M.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Sir, with respect to the question of the continuance of the Third Bench of the High Court, though Mr. Subba Aiyar gave us an explanation why the continuance should be acquiesced in by the House, there are some aspects which call for consideration by the House. In the first place, to cope with the increasing work of the High Court, the High Court itself has adopted certain measures. That is, in the matter of first and second appeals, they have insisted, in order to facilitate the work of the High Court, that almost all the important papers in connection with the appeals should be printed. Therefore, the necessity to wade through undecipherable manuscript copies does not arise, and considerable facility is afforded to the High Court in that respect. So the litigant public, I am submitting, are thus taxed indirectly by the High Court in the matter of these appeals. That is an aspect of the question which we shall not be justified in losing sight of. Thus, in one way, there is an amount of indirect taxation so far as the litigant public are

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concerned. In another way, we are calling upon the general taxpayer to pay for the continuance of the Third Bench. I feel, Sir, that the High Court cannot be allowed to have it both ways. The learned Judges should take into consideration the increased taxation in the matter of hearing appeals before the High Court, entailed by the requirements relating to the printing of papers. I wish to draw attention to this aspect of the matter and enquire whether the High Court cannot proceed in the old way as they used to do. Here it is really the question of the general taxpayer that has to be taken into consideration; and he is being subjected to an undue amount of taxation, so far as the cases before the High Court are concerned. It may be, as Mr. Subba Aiyar put it, that now-a-days the length of argument in Courts is generally not on the wane but the other way. It may be that the Judges are confronted with an increasing quantity of precedents. All that may be true. Neither do we say that the Judges are whiling away their time. But, it is certainly for us to look into the question and try earnestly to reduce as far as possible the incidence of taxation in various ways to which the litigant public are now exposed. This is a point about which this House is pressing for an explanation. The facts urged by Mr. Subba Aiyar do bring no solace to us; and the line of argument followed by the Law Member for the retention of the Third Bench does not even cheer us by holding out any hope of its future extinction; for, he says that, in view of the output of legal precedents and in view of the growing length of arguments and so forth, the chances are that the Third Bench has really come to stay. This question was pointedly raised by me at the time of the amendment of the High Court Regulation; and Mr. Subba Aiyar said that it was sufficient to provide in that regulation for a minimum of four Judges and that the chances were that we might not have to appoint additional Judges. Mr. Subba Aiyar's line of argument to-day is the other way. Therefore, to allow this precedent to become rooted, so far as we are concerned, is a painful thing and a disaster. With respect to the continuance or the retention of the Third Bench, we object, not out of anything like cussedness in the matter, but because we feel that it is a *real* grievance so far as the taxpayer is concerned. It behoves the Government to go into the question more minutely and see whether, as a matter of fact, it is not possible for the Government to afford the necessary relief to the litigant public without resorting to the perpetual continuance of this Third Bench. These are the points that I have to submit in connection with this subject. With these observations, I support Mr. K. P. Raman Pillai's motion.

Mr. K. P. RAMAN PILLAI (*Quilon*): Sir, the Law Member was telling us, as a justification for the continuance of the Third Bench, that the file in the High Court is heavy and that it has become increasingly heavy. The question that I asked him and that I would still ask him is, is this increase due to the low out-turn of work by the High Court Judges, or to the increase in the number of suits that are instituted year after year? For that purpose, I asked the learned Law Member to compare the statistics of suits instituted during the two

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[Mr. V. Subba Aiya.]

periods of 1086 to 1092 and 1092 to 1093 and pointed out to him that the Third Bench was for the first time constituted in 1092 and that it would be a source of satisfaction to the House and the public if he would tell us whether the average number of suits instituted remains the same or has increased year by year. He has declined to favour the House with the statistics. We know the Law Member is versed in hard facts and on complicated questions of law; and his refusal to place before the House these facts leads one to the inevitable inference that, if produced, they would go against the position he has taken up. I may tell the Law Member that the average number of first and second appeals filed in the High Court annually during the two periods I mentioned remains stationary. It is 1,036. So that if the work in the High Court is increasing, I contend that it is because the Judges are not doing their work; and in reply to that it has been whispered here that the High Court Judges attend Court from 11 to 5. It is for them to say how six Judges are not able to turn out an amount of work proportionate to what four Judges in the past had been turning out. The percentages of disposal for these two periods are 48 and 50 respectively. In 1092, two additional Judges were appointed. The percentage of disposal has gone up only by two per cent. That evidently shows that, in spite of their regular attendance, they have not been able to turn out as much work as the Judges of the good old days were able to do. Again, I asked him to tell us the principle upon which the Third Bench was constituted and is allowed to continue. I may point out to the Law Member that, in the years 1089 and 1090, the number of cases pending was only 911 and 1,117 respectively. It was noted by the Council that, in 1093 and 1094, the number of cases was respectively 967 and 1,167. It remains for the Law Member to say why a Third Bench was retained in these years 1093 and 1094. Mr. P. K. Narayana Pillai has already pointed out that this Third Bench has come to stay. We find that every year the provision is made temporarily for one year. It is seen from a foot-note in the year's budget that provision is made for the continuance of the Third Bench for the whole of the year 1099. I submit there is absolutely no justification for retaining this Third Bench in the High Court any longer. At any rate, it is time to make a revision of our ideas whether these temporary Judges we have may not be asked to turn out better work by any other arrangement. After all they are only temporary. Of course, the Law Member, like a clever lawyer, will tell the House that the work of the High Court is onerous and that the vakils and the law reports are partly responsible for the delay. Well, it is only an argument for its own sake and I do not think I need refer to it. For these reasons, I press the motion.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, the work of the High Court does not exactly depend upon the number of cases disposed of in any year and therefore cannot be judged by that. My friend complains that I have not given figures. I think I gave him some figures, enough to convince the House of the necessity

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for the continuance of the Third Bench in the High Court. At the discussion of the last budget, when there were only 1075 cases pending, we thought it was necessary to continue the Third Bench. The number has now gone up to 1595. Further, there was the special circumstance that one Bench was fully engaged in a big case for about four months. Therefore, I thought much argument was not necessary. If my friend would insist on my giving some figures, I have not the slightest objection to do so. In the year 1081, there were 754 appeals filed. In 1086 the file was only 906. After that the file has considerably gone up. In 1093 the number of first appeals pending more than 2 years old was 74, in 1094 it was 60, in 1095 it was 67, in 1096 it was 20 and in 1097 it came down to 8. Everybody knows that these old cases are very tough and will engage a Bench for very many days. I emphasise the fact that in 1096 the number was considerably reduced—to 20—and at the end of 1097 there were only 8 appeals pending for overtwo years. But the High Court were not in a position to say what the nature of the work for 1097 would be and I also hinted at the time of the last budget that, from the peculiar nature of the Church Case, it might engage the attention of the High Court for some months and therefore it was necessary to continue the Third Bench. I said it might take the Judges about a month. But now, as a matter of fact, we find that that case actually took four months, not to speak of the time taken by one of the Judges to write the judgment. In consequence of this, the number of old appeals pending has risen. We have yet another case, *viz.*, the Poonjar Appeal, which is likely to take not less than a month. We do not know how much time it is going to take. Apart from this, the work of the High Court has been, as I said, very satisfactory. In spite of the fact that all the Judges have been very regular in their attendance and that all of them have been working from 11.30 A. M. to 5 P. M. on all days they have not been able to reduce the number of pending cases. For these reasons, I think the continuance of the Third Bench is absolutely necessary and I leave it to the House to decide whether my demand is unreasonable and whether the Third Bench should continue or not.

As to how long the Third Bench will continue, I may tell the House that the moment it is found unnecessary and undesirable to have it, that moment it will be stopped. Now we have 1,595 cases pending. Out of these, 22 cases are more than three years old and three more than three years old. The moment arrears are cleared and the Third Bench is found unnecessary, it will be abolished.

With reference to the printing charges referred to by Mr. P. K. Narayana Pillai, I beg to submit that that is an argument which only supports my case. Because even when all the pleadings, appeal memos and other papers are printed, the judges are not able to cope with the work and the arrears have accumulated. If we want to relieve the litigants in the matter of the cost of printing, the result will be that the Judges will be able to dispose of only a less number of cases and the delay in the administration of justice will be considerably greater. Of course, that is a matter which has to be placed before the High Court. If they think that it is not necessary——

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[Mr. M. R. Madhava Variar.]

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I wish to know whether it would not be possible to allot a certain sum of money, year after year, and distribute it to the various judges according to the number of cases dispose of by each of them.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not know whether the piece-work system could be applied to the administration of justice and that to the highest tribunal of the State, where the judges have to preserve the highest amount of judicial independence irrespective of the length of time taken up for disposal of cases. They are there to settle disputes between litigants——

MR. K. P. RAMAN PILLAI (*Quilon*): I wish to know whether there could be any objection to allot a specified number of pending cases to each of the temporary Judges so as to leave the normal file to the permanent Judges.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not think that is possible. Because, the distribution of cases is done by the Chief Justice and he takes particular care that a fair distribution is made. There may be tough cases both in the current file and among the old cases. It would be unfair if all the old cases were given to the temporary Judges. It will not be possible for them to dispose of cases which they themselves have tried. I do not believe there has been any complaint for the past so many years either from the Bar or from the litigant public as to the distribution of cases in the High Court. I do not think that this is a very serious matter and the distribution of the work may be left to the Chief Justice as is done now.

PRESIDENT; Do you press your motion, Mr. K. P. Raman Pillai?

MR. K. P. RAMAN PILLAI (*Quilon*): If the Law Member would assure the House that it is only for this year, I have no objection to withdraw the motion.

PRESIDENT: The Law Member has assured you already that the Court is temporary and is *only* temporary.

MR. K. P. RAMAN PILLAI (*Quilon*): Hoping that the assurance will turn out to be true, I may be permitted to withdraw the motion.

The motion was by leave withdrawn.

Motion 194.

The following motion was not made:—

MR. M. R. MADHAVA VARIAR:

194. To omit the allotment of Rs. 4,236 for temporary clerks, etc.

Motion 195.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): Sir, I beg to make the following motion:—

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195. To omit the allotment of Rs. 150 for printing and binding T. L. R's.

Sir, the T. L. R. is a Government publication and the Government maintain a press at heavy cost for printing Government publications. Still the T. L. R's. are now printed in a private press. As a member of the Press Committee I had opportunities of inspecting the Government Press and I found that there is no sufficient work for the men engaged in the Press. If sufficient work is not given to the employees of the Press, they will have to be dispensed with and the materials which are used in the Press will rust. The Government have purchased a Linotype machine at a very heavy cost of about Rs. 12,000 or more and the out-turn of the machine is eleven pages per month against the expected outturn of 250 pages. The Superintendent and the expert member of the Press Committee are of opinion that if the T. L. R. and other English publications are printed in the Government Press there will be sufficient matter for the employees and the cost of this publication could be reduced. In order to make this suggestion I sent up this motion.

PRESIDENT: I think the next motion is identical with this.

MR. K. P. RAMAN PILLAI (*Quilon*): Yes Sir, and I have nothing more to say on the motion.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The T. L. R. is now printed in the *Western Star* Press, because it was found that the Government Press was not in a position to cope with the work.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): I wish to know whether the Superintendent of the Government Press has certified that it cannot be printed in the Government Press.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I do not know. This was not done recently. The T. L. R. has, for many years past, been printed in the *Western Star* Press; but, if after receiving the report of the Press Committee, Government are of opinion that there is scope for further work in the Government Press, certainly that opportunity will be availed of and the T. L. R. will be printed in the Government Press. As it is, there is no contract with the *Western Star* Press for a term of years and at any moment we can stop printing the T. L. R. there. As soon as we get the opportunity of printing the T. L. R. in the Government Press it will be availed of, because I do not think there is anything to bind us down to a particular press. At any moment it can be stopped.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): In the light of the explanation offered I withdraw the motion.

The motion was by leave withdrawn.

Motions 196 to 199.

The following motions were not made:—

MR. K. P RAMAN PILLAI:

196. To reduce the allotment of Rs 450 for printing and binding T. L. R's. by Rs. 5

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[Mr. K. P. Raman Pillai.]

MR. K. P. RAMAN PILLAI:

197. To reduce the allotment of Rs. 600 for purchase and repair of furniture by Rs. 300.

MR. K. P. RAMAN PILLAI:

198. To omit the allotment of Rs. 990 for hot weather charges.

MR. K. P. RAMAN PILLAI:

199. To reduce the allotment of Rs. 900 for office expenses by Rs. 700.

Motion 200.

MR. K. P. RAMAN PILLAI (*Quilon*): Sir, I beg to make the following motion:—

200. To reduce the allotment of Rs. 53,647 for High Court by Rs. 100.

PRESIDENT: May I take it that the succeeding motions of Messrs. Nidiry and Kumara Pillai are identical?

MR J. JOHN NIDIRY (*Changanachery* cum *Minachil*): It remains to be seen. I must hear Mr. Raman Pillai.

MR. K. P. RAMAN PILLAI (*Quilon*): My object in sending up this motion is to give the Council an opportunity of discussing one or two matters which affect the efficiency of judicial administration. We have already discussed the superfluity of the Third Bench of the High Court and the unsatisfactory nature of the work done by them. It remains for me to draw the attention of the Council to the system of recruitment of Judges and Munsiffs adopted at present. I would urge on the Government the absolute necessity of fixing a definite proportion for recruitment from members of the Bar. No doubt, some recruitment is even now made from the Bar. But, there ought to be a definite principle by which a certain fixed proportion of the Judges in the High Court, the District Judges and Munsiffs are recruited from the Bar.

PRESIDENT: We are now dealing with the High Court only.

MR. K. P. RAMAN PILLAI (*Quilon*): I may say that, since the recruitment of District Judges and of Munsiffs is done on the recommendations of the High Court, I am in order in pointing out that in the discussion of the general principle.

PRESIDENT: I do not think so, Mr. Raman Pillai.

MR. K. P. RAMAN PILLAI (*Quilon*): I have got two other motions also both for the District Courts and for the Munsiffs' Courts. With regard to the Munsiffs' Courts, at any rate, there must be a definite principle. The system adopted now is this: if it is found inconvenient to promote a District Judge, resort is made to the Bar. At the time the High Court Regulation came up for discussion, I believe this matter was discussed; and then we were told that no statutory provision need be made although it is obtaining in Madras and other places. In promoting the District Judges to the High Court also, there must be

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some principle. Mere seniority ought not to be the criterion for promoting a District Judge to the High Court; and what is more important is that a District Judge who is condemned by one administration ought not to find a place in the High Court during another. It considerably impairs the efficiency of work in the High Court. Much of what we had to complain about the output of the Third Bench in the High Court is due to recruitment of that kind. I have also to point out to the House that, on account of this indiscriminate recruitment, the Judges of the High Court are not commanding that respect and reputation which they ought to. At the same time, in recruiting the members of the Bar, the authorities ought to see that the aspiration of the lawyer for judicial position is governed by an impartial estimate of his ability to do honor to the post, and not by a desire to get the distinction and emoluments that that position might bring him. That is an important consideration which ought always to be kept in view. I submit that, on account of the system of recruitment, the High Court has gone down in the estimation of the public. The popular impression about the High Court can be very easily seen from the series of articles that appeared in the *Malayala Manorama* regarding the decision of the High Court in the *Vattippanam* Case.

PRESIDENT: You are out of order. Any reflection regarding the decision of the courts of justice in Travancore is out of order.

MR. K. P. RAMAN PILLAI (*Quilon*): May I point out, Sir, that we are justified even in commenting upon a particular judgment of the High Court? It is the liberty of the press and the ordinary platform, not to speak of the platform here, to criticise judgments so long as we keep within limits. On the other hand, I am only drawing the attention of this Council to a series of statements made by one of the leading papers of this country.

PRESIDENT: You did make a reflection upon the decision of a court of justice. Under the rule, as it stands, I think this reflection is out of order. I must request you to desist from doing so.

MR. K. P. RAMAN PILLAI (*Quilon*): I beg to submit that, if that be so, the whole discussion regarding this Demand will relate to the conduct of the High Court.

PRESIDENT: I do not think so. My ruling is that it is not so. Reflections upon courts of justice, either as regards the decisions in particular cases or decisions in general, are out of order.

MR. K. P. RAMAN PILLAI (*Quilon*): Passing on, I wish to draw the attention of the Council to the fact that the High Court do not properly watch and control the judiciary under them. In their review of the work of the judiciary in 1095, the High Court observe:

"The continued rising of arrears, particularly of old suits and appeals, in most of the courts is highly unsatisfactory. The Judges and Munsiffs concerned will put forth their best endeavours and clear off long-standing cases and bring down arrears of old cases to normal condition before the close of the current year. The High Court are constrained to remark that serious notice will be taken of those officers who fail to show good work in the current year".

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[Mr. K. P. Raman Pillai.]

This would put the public to understand that, in cases of dereliction of duty or low out-turn, the High Court will take very serious notice of the conduct of the lower courts. But, in the review of the administration of justice in 1096, the High Court remarked :

'The continued failure of the District Judges as a body to keep abreast of the files, the consequent accumulation of arrears of old cases, congestion of arrears in some of the District and Munsiffs' Courts, the abnormal pendency of old suits in a good number of Munsiffs' Courts, the general falling off in the quality of work of the District Judges, are some of the unsatisfactory features in the operations of the District and Munsiffs' Courts during 1096. It need hardly be said that a decided improvement in all directions is expected from the Judges and Munsiffs from the end of the current year."

What I have to point out to the Council is that the High Court seem to have climbed down, contrary to the expectations of the people. In 1097, they grew still milder. This is what they say :

"Continued rising in arrears, particularly of old suits and appeals, in most of the District Courts is a very unsatisfactory feature of the operations of the District Courts during the year. As regards the operations of the Munsiffs' Courts, though the number of suits of over one year's duration showed appreciable reduction, those of two years standing were in the ascendant in 17 courts. Taken as a whole, it can only be said that the efforts put forth by the temporary courts were adequate only to check the rise. It is hoped that the arrears of old suits and appeals will be considerably brought down at the end of the current year."

Then, as for taking serious notice of slackness in work, compared to the other departments—the Land Revenue Department for example—we see every other week some Tahsildar or other getting into trouble. There is no reason why the Temporary Munsiffs and Second Judges and all the rest of them, who are entertained year after year as their colleagues leave matters in arrears, should not also be meted out the same treatment and that their delay should not be twisted into action by the High Court. The only inference that the public would make is that the Judges and Munsiffs are creatures of some High Court Judge or other. Recruitment is made according to the recommendation of one Judge or other; and if one Munsiff is handed over for punishment, it will go against the wishes of one of the colleagues, and if another is handed over, another colleague will object to the punishment. In that way, expectation of any serious notice dwindles down to nothing. What the state of affairs in 1098 is, we do not know, because these returns are published very late. Even the quarterly reviews of the High Court for the work in 1097, are published in 1098, so that they are useless to the public and these directions are useless to the officers concerned also.

Then again as Mr. P. K. Narayana Pillai pointed out, the High Court are not lightening the burden of the taxpayer. The Salaries Committee, as I have twice or thrice mentioned, consisting of the Financial Secretary to the Government, the Deputy President of this Council, and one other, Mr. John Nidiry, an old member of the Legislative Council and presided over by the Efficiency Audit Officer, recommended that the place of the Deputy Registrar in the High Court

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was superfluous; but the High Court insisted on having the Deputy Registrar along with the Registrar and the Manager. They go still further. Ordinarily, it is the senior Munsiff who ought to be promoted as the Registrar. But, instead of promoting him, they have now appointed a Second Judge to the post of the Registrar, necessitating additional personal allowance to the present incumbent.

Similarly also, in the matter of appointments made in the High Court, the interpellations made in this Council will show that things are not what they ought to be. We have heard of Judges fighting with each other in Departmental Full Bench meetings over the appointment of seven-rupee peons or twelve-rupee clerks and some getting out from the Full Bench in protest and so forth. (*Laughter.*) It is a matter for great regret that these people to whom the life and property of the subjects are entrusted should fall out at each other's throat for petty matters like this. It is no wonder therefore that people doubt whether their matters are safe in such hands. The High Court are prepared, as their recent production of the Civil Courts' Guide indicates, to go beyond the powers vested in them by the legislature and enact rules which are *ultra vires*. I need not trouble the House any further with details. Probably some of my colleagues, legal practitioners, might get up and say that recently several rules which are *ultra vires* have been passed by the High Court.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, when the High Court Regulation was discussed the question was definitely raised that the recruitment from the Bar should bear a definite proportion to the number of Judges in the High Court. The question was discussed at sufficient length and it was ultimately decided by the Council that no proportion ought to be fixed and that the appointment should be left to the discretion of the Government. It will therefore appear that the House is practically agreed that no hard and fast rule should be made as to what proportion should be fixed. The only question then is whether there should be recruitment from the Bar or not. So far as that is concerned, Government have been recruiting from the Bar and we know it as a matter of fact, recently in two instances. As a matter of fact, there was absolutely no such instance, I believe, eight or ten years ago, and all the recruitment then was direct by promotion from the judiciary. I believe Mr. Raman Pillai will concede that the High Court *was* commanding respect even though the Judges were recruited from the subordinate ranks. So that, the fact that the subordinate Judges are promoted to the High Court cannot be a ground to say that recruitment is bad. On the other hand, if, taking into consideration capacity, character and other requisites that are absolutely necessary for a High Court Judge, Government are satisfied that the promotion of a District Judge to the appointment is desirable without resorting to the Bar, they will do it. As was pointed out, when the High Court Regulation Amendment Bill was discussed, the number of the judges to be appointed and the scope of selection from the Bar are very limited, and therefore in such cases, it must be

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[Mr. V. Subba Aiyar.]

left to the discretion of Government. I do not think that is a matter for any serious complaint and it will not be proper to say that the recruitment should not be from the judiciary but only from the Bar. Then, so far as the inspection of the work of the subordinate courts is concerned, there is no doubt that the judges of the High Court are not in a position to inspect the subordinate courts when the courts are in full working. They are in a position to go on tour only during vacation time, because under the existing regulation it is not possible to do so otherwise. The High Court Regulation has been amended and I hope it will become law very soon. It enables the High Court to depute one of its judges to inspect any court and even pay surprise visits to see whether any Judge or any Munsiff is working properly; to know the nature of the cases that is tried, the complexity of the cases involved in the pendency list that the official might have submitted and see whether a court is working properly or not. In a case of that kind, Mr. Raman Pillai drew attention to some instances in the executive line where punishments are awarded to the officer for slackness of work and asked why the same should not be done in the case of judicial officers. In the first place, there are two vital differences between these two classes of officers. So far as the executive line is concerned, in most instances, it is the officer that is at fault. He could bring the work up to date. So far as the judicial work is concerned, a Judge or a Munsiff is not the sole master. I ask my brother members of the Bar to say in how many instances the production of documents was promptly made or the pleadings were promptly answered and they were ready really to examine witnesses. In many cases, litigants apply for adjournment. He takes process, the witnesses do not appear and the various steps prescribed in the Procedure Code have to be gone through. So, without the co-operation of the litigant public and the members of the Bar, it is not possible to dispose of any case. So, unless it is distinctly proved that the Munsiff or the Judge is solely responsible for the delay in the disposal of cases, it is not possible to punish him, and such a close scrutiny is impossible so far as the High Court is concerned unless there are more opportunities for inspection.

MR. N. PADMANABHA PILLAI (*Karunagapalli*): If the subordinate judges are not responsible for the delay, why should the High Court pass strictures on them?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): As far as possible to expedite and to see to their insisting upon the vakils co-operating.

MR. K. P. RAMAN PILLAI (*Quilon*): What is the reason for the strictures becoming milder and milder?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is what I am explaining. Unless they are satisfied that a particular judge is grossly at fault in doing his duty it would not be possible to punish him. Further, in a judicial matter, it is entirely a matter of

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judicial discretion to grant adjournments, to allow additional witnesses, and all that; and if judges are to be insisted on to hear cases on particular days, it will be rather difficult to get on with judicial administration. They must have sufficient discretion. As I said, unless one is grossly at fault, it is unnecessary and undesirable to interfere with the state of affairs, and I believe the High Court are perfectly right in not doing it.

As has been suggested, they will take the necessary action if after inspection a particular Judge or a Munsiff is found to be at fault. Mr. Raman Pillai then referred to the dispute between Judges of the High Court in the Full Bench meetings. I certainly do not possess the confidence which my friend Mr. Raman Pillai possesses as to what takes place actually in the departmental Full Bench meetings, because I always thought it was a confidential matter and only the result would be known outside. But he seems to know more of it. I am perfectly ignorant as to what takes place there and am not in possession of such information.

As regards the question of the Registrar, it is a matter of an officer which involves a certain amount of responsibility. There are many Munsiffs and the High Court take care to see which of them is efficient so far as capacity and willingness for ministerial work are concerned and whether they could have confidence in him and then a particular person is appointed. They should have sufficient discretion to select the person who can properly discharge the duties. I do not think that such discretion has been abused in any instance.

MR. K. P. RAMAN PILLAI (*Quilon*): Is it considered to be judicial discretion to select an officer for an appointment?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The High Court must be satisfied about the officer who is selected for the post, because he has to bring to the notice of the High Court important matters of various kinds and he has to control the whole staff and should be one who knows ministerial work thoroughly and also possesses the requisite tact.

MR. K. P. RAMAN PILLAI (*Quilon*): May I know whether the Government reserve to themselves a right of checking the necessity for a particular staff recommended by the High Court or not?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): So far as the pay is concerned, the appointment has to be sanctioned by the Government. Generally, Government sanction the recommendation; but if in any particular case the Government think that the discretion has not been properly used, they may interfere.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sir, the learned Law Member has adroitly traversed every allegation made by my friend Mr. Raman Pillai, but the case of my friend is as far as it was before the reply was given. As one who moved the amendment at the time when we were discussing the High Court Regulation

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[Mr. T. K. Velu Pillai.]

Amendment Bill at the last session of the Council, I must continue to express my considered opinion and also the considered opinion of various organisations of Vakils throughout the country—the opinion expressed by several public men in Travancore—that the High Court Regulation ought to provide for a certain percentage of judges to be appointed directly from the Bar. At that time, however, Sir, there was some difference of opinion in regard to the necessity to have a rule of the like nature imported into the Statute. Therefore some of my friends found a little difficulty to support that position. I am very glad that those difficulties have been removed and this is a fit occasion to take up the question and discuss it once more so that we may come to a proper conclusion. It has been made out, at any rate, it has been attempted to make out, that the principle has been accepted and acted upon by the Travancore Government that a certain number of practising Vakils should be directly elevated to the High Court Bench. As far as I am aware—my memory does not go so far beyond as Mr. Subba Aiyar's, because I have not lived in this world as long as Mr. Subba Aiyar—I can remember only two instances, viz: Mr. K. G. Sesha Aiyar and the late Mr. Kochukrishna Marar who were directly elevated to the High Court Bench from our Bar. But I must express regret in that both these gentlemen were found fit by the Government for their position only when they were of advanced years, when they were 48 and 50 years old. I do not think they were able to give us the maximum benefit by their service, because they were elevated to the bench late in life when their energy began to fail. To pick out one man at one time from the Bar, another man at another time from the Bench in a fortuitous manner, without regard to principle goes against the very rule that Mr. Subba Aiyar wants to observe. Because, in the absence of a rule that a particular appointment at a particular time will be made from the Bar or from the service, the chances are that no man can be sure whether he is going to get a place or not. Several poople, Sir, may be in the running. Several, of course, may not care to get the place. But some of those who are in the running will get the place. Because there is no knowing when this rule of recruiting direct from the Bar is going to operate, people in the service, especially those in the higher ranks, will not do as much work as they would otherwise do, because one fine morning their chance of promotion will be frustrated. Mr. Raman Pillai alluded to the fact that officers who were once considered unfit for promotion to the High Court have been subsequently promoted. He also said that gentlemen condemned during one administration should not be encouraged during another administration. I fail to see the force of that argument. I understand that promotion to the High Court Bench is one of the privileges of His Highness the Maha Raja, and His Highness' glorious reign has been continuing for more than 35 years. So that, the question of condemning an officer in one administration and encouraging him in another does not arise. I must also say, Sir, that in the case

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of a particular officer, although the Travancore Government passed severe rulings against him when he was promoted from a particular appointment at every turn, although it was laid down in the most rigorous and accurate language that thus far he should go, and no further, it was found that such a gentleman was fit to occupy one of the highest posts in the highest tribunal. I am adverting to this, because the Government strutted into the difficulty from which they want to sneak out.

MR. K. P. RAMAN PILLAI (*Quilon*): May I say, Sir, that that is an instance which will support my contention?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): It is for me to accept the interpretation put upon my words. I understand what I am saying and I am prepared to take the risk. (*Laughter.*) I know instances where particular men who were ripe enough for promotion as District Judges were not given that appointment because they were not graduates, and these non-graduates have been subsequently lifted to positions which were for a long time denied to them. My point therefore is that there is a good deal of uncertainty in this matter. People are not given the assurance that, if they do their work properly, they will earn their promotion in a legitimate measure. This is one reason why the out-turn of work in the subordinate courts is not as good as it should be.

MR. A. HOOGEWERF (*Nominated*): May I point out to Mr. Velu Pillai—say that a Munsiff or a Judge is recruited from the Bar for the District Court and he is a very competent man and he has service—would it not be an injustice to him, if his claims are overlooked by selecting another man to the High Court?

MR. T. K. VELU PILLAI: (*Trivandrum cum Nedumangad*): All our rights as human beings depend upon the law, so that when a man in the subordinate service is satisfied and is prepared to accept the lot under which he claims to be appointed—so that when a man accepts a subordinate place with his eyes open, he does so with a full knowledge that there is a wise provision relating to promotions in the Travancore State; and he cannot therefore complain of the results of such choise.

Another point I wish to press before the Council is that the work of the subordinate judiciary is going on from bad to worse and that has been proved beyond the shadow of a doubt by the figures and arguments given to us by Mr. K. P. Raman Pillai. As he has observed, communal and other considerations predominate at the time people are appointed to judicial posts. I do not dwell upon this question any further; but I express a hope that in the recruitment of the judiciary, communal considerations will not prejudice the High Court and the Government. As I said this morning, all communities should alike be improved. No community should be refused any of their rights and privileges of the subjects of His Highness the Maha Raja. If, simply for the reason that there is a man belonging to a depressed community who occupies a lesser position, he is given the next place, I think the wings of ambition will be clipped and

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[Mr. K. C. Mammen Mappillai.]

the spirit of enthusiasm of officers will be completely chilled. Apart from the question of the judiciary—

MR. A. HOOGEWERF (*Nominated*): I beg to say that there is no—

PRESIDENT: Are you putting a question?

MR. A. HOOGEWERF (*Nominated*): I beg your pardon, Sir.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I anticipated Mr. Hoogewerf's point about the efficiency of the service. I am not at all for negativing the efficiency of the service. It is a paramount consideration.

PRESIDENT: Your time is up.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I have got only one more word to say. Distance and discipline is necessary for judicial officers no less than for others. If a High Court Judge finds pleasure in regattas or hunting parties arranged by his subordinates, during his tour of inspection, the Munsiff will lose his fear of the High Court Judge and the Judge will have some fascination for the Munsiff. (*Laughter.*) It was for this reason that Sir Lawrence Jenkins, the Chief Justice of the Calcutta High Court, declined to be a society man. Now, Sir, if the members of the High Court Bench realised this, they would not like to pay friendly visits to Munsiffs and others while on tour. I am sure these Munsiffs will then be able to turn out very much more work. Then the Government is—

MR. S. KRISHNA AIYAR (*Mavelikara* cum *Kartikapalli*): Sir, I move for a closure.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): Sir,—

PRESIDENT: Mr. Mammen Mappillai, have you anything to say?

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): I wish to say a few words on this question. The High Court of Travancore is the custodian of the lives and liberties of the people, and, therefore, in the recruitment of the Judges of the High Court it is a matter of the greatest importance that the best possible candidates should be chosen. A hard and fast rule that a certain percentage of the judges should be directly recruited from the bar and another fixed percentage should be from the service cannot be followed. We know the circumstances under which, for several reasons, it would be most desirable that the vacancies should be filled up from the service itself. Travancore is a small State and we know more or less the condition of the various persons who aspire to be High Court Judges. There may be, for instance, men of outstanding character at the bar and it may be a benefit to the State to promote them to the Bench. In all these cases, we have to depend upon the unbiassed and considered opinion of the Government and the High Court

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in seeing that the best possible men are promoted to the High Court. The claims of seniority or the claims of the bar—all these should surely give way before the most parampunt claims of justice being administered in the most efficient and impartial manner by the Judges of the High Court. We had a different kind of recruitment only recently. We have reason to think that a direct recruitment from the Bar has been tried in a few instances. Again, we were also recruiting Sub-Judges from British Indian service. Of course, all these different methods have given us some exceptionally fine Judges, and also some remarkable failures. Therefore, we cannot say that success or failure is the monopoly of any particular man or age. The natural inference that can be laid down is that the Government of to-day should exercise all possible scrutiny and the greatest care.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to ask Mr. Mammen Mappillai if he is aware of the rules regarding appointments of judges in the British Indian High Courts.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): What applies to Madras need not necessarily be applicable to Travancore.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): That was not my question. It was whether he is ignorant of these rules.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): I am not aware of any such thing as to how the rule is viewed by the people there. With my experience of the conditions of my country I am bold enough to say that a hard and fast rule with regard to the recruitment would be surely unnecessary and undesirable in the interests of the proper administration of justice in the courts. That is my opinion.

With regard to the justification of Mr. Subba Aiyar that the delay in the disposal of cases is due to the roundabout methods in which Vakils and clients produce witnesses and records, I have to say something from my experience of the various mofussil courts, more or less. What is really the cause of the delay? We have some exceptionally smart officers in the Judicial Department. Wherever they go, we immediately find that there is a strict disposal of cases. The heavy arrears in certain courts are immediately cleared, the moment a particular officer is posted. On the other hand, we also find heavy arrears the moment a certain officer is transferred. There may be difficulties, but the chief cause for arrears accumulating in the courts is the laxity or incapacity of the officers concerned. I know of a particular officer whose method is to make it known to the Vakils, whenever he goes to a new Court, that he will not permit delay beyond a certain time in the production of witnesses and records. But, on the other hand, when a judicial officer has no method of his own, the Vakils can easily have their own way and there is no progress in his work. Therefore to say that the delay is all due to the litigants and the public is surely not justified by the circumtances as I find in the various mofussil courts. This is therefore what I have to say.

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[Mr. V. Subba Aiyar.]

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to ask him if he is aware that in regard to the production of witnesses there are rules laid down by the Civil Procedure Code.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industries, North*): Mr. T. K. Velu Pillai knows I am not a lawyer. But, what I know is that, in certain courts, what I said obtains. Whether it may be due to my ignorance, I do not know. But I am quite positive that my statement is true in regard to certain courts.

PRESIDENT: Mr. Krishna Aiyar moved for a closure and I will now put the question.

The closure motion was duly carried.

MR. K. P. RAMAN PILLAI (*Quilon*): I do not make any further remarks.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, with reference to some observations made by Mr. T. K. Velu Pillai as to recruitment, I have given only two instances where there was direct recruitment from the Bar to the High Court here. So far as he is concerned, I take it that he is for no restriction to the Travancore Bar, and therefore recruitment may be made even from outside.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to tell Mr. Subba Aiyar, as he is in possession of the House, I do not know how what I said some time ago in another connection arises now.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): References to recruitment from outside were also made by some; and if so I may cite instances where the late Dewan Mr. Krishnan Nair, Mr. Raman Menon and Mr. Justice Chatfield were all recruited from outside.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I am sorry I have to interrupt. I wish to offer a word of personal explanation. I made it very clear while speaking on the High Court Regulation that the rule ordinarily obtaining in Travancore is that, when there are men in Travancore recognised by Government as efficient, only Travancoreans will be appointed. In case there is dearth of such men here, and in case there is a man of outstanding personality outside, who is prepared to accept that work for the low salary we give, I am not for restricting the appointment to Travancoreans. That is what I have stated.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Then with reference to the supersession of some in one administration and their appointment in another administration, I do not propose to go into the merits of the question. There cannot be any hard and fast rule in the matter if we take a more general view of it. It is a matter of common knowledge that in some instances one officer may be superseded by another of superior merit and this does not mean that the officer superseded will not be in a position to supersede another, or that if

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he is once superseded, his legitimate claims should thereafter be for ever completely ignored. This is a position which nobody will advocate. Unless an officer is declared or found unfit for promotion, Government will not be justified in ignoring his claims when the necessity for it arises.

MR. M. N. PILLAI (*Trivandrum*): May I know why Mr. Bhutalingam Aiyar was superseded by Mr. Venkatarama Aiyar?

PRESIDENT: We cannot discuss particular instances here.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Then, going to the question of communal recruitment, other conditions being equal, it will be conceded by the House that, if a community is not properly represented in the public service, that community might have a chance. Members of that community should be given preference to persons whose community is sufficiently represented in the service. Mr. T. K. Velu Pillai said that some of the judges were very sociable, that they go on hunting excursions and all that. I do not know whether in these democratic days people would desire that the judges should be unsociable animals and should not move with the members of the Bar or Munsiffs.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I never said that there should be no kind of social intercourse between the Judges and their subordinates. I object to a High Court Judge in his inspection tour visiting mofussil Munsiffs in their houses and having more than ordinary intercourse. (*Laughter.*)

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Even with respect to the Munsiff contemplated by my friend, he is the highest officer in the mofussil and therefore a High Court Judge on circuit may not have anybody else to talk to. All these are on the presupposition that the character of the High Court Judge is impeachable. But once we grant that he is a man of character and alive to his sense of responsibility, I do not know what disadvantage or difficulty will arise if he moves very freely with the subordinates. Should a Judge of the High Court not move with others or even attend clubs? Have we come to that?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I wish to know whether Mr. Subba Aiyar moves on terms of equality with his clerks.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I hope so. You must ask my clerks. (*Laughter.*)

PRESIDENT: MR. Raman Pillai, do you press this motion?

MR. K. P. RAMAN PILLAI (*Quilon*): I do not.

The motion was by leave withdrawn.

Motion 201.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): My object in sending this motion was to draw the attention of the

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[Mr. T. Kumara Pillai.]

House with regard to one point, *i. e.*, with regard to the laxity exhibited by the High Court in the matter of supervision. That has been the subject matter of the previous speakers and since it has been sufficiently discussed, I do not make the motion that stands in my name.

The following motion was accordingly not moved :—

201. To reduce the allotment of Rs. 53, 364 for High Court by Rs. 100.

Motion 202.

MR. T. KUMARA PILLAI (*Eraniel* cum *Vilavankod*): Sir, I beg to make the following motion :—

202. To reduce the allotment of Rs. 53,647 for High Court by Rs. 100.

ജനങ്ങൾ പകൽസമയം പലേ ഉദ്യോഗസ്ഥന്മാരോട്ടം പലേ സംഗതികളിലും പെരുമാറി പലവിധമായ മനോവേദനകൾ അനുഭവിച്ചു രാത്രികാലങ്ങളിൽ ഉറങ്ങാനായി കിടക്കുമ്പോൾ അവരുടെ രക്ഷയ്ക്കു ഹൈക്കോടതിയുണ്ടെന്നുള്ള സമാധാനം അവരുടെ സുഖമായ ഉറക്കത്തിന് കാരണമായിത്തീരുന്നു. ജനങ്ങൾക്ക് അവരുടെ ജീവിതദശയിലുണ്ടായിവരുന്ന സങ്കടങ്ങളെ പരിഹരിച്ചുകിട്ടുന്നതിനും, അവരുടെ സ്വത്തിനും ദേഹത്തിനും രക്ഷകിട്ടുന്നതിനും ബഹുമാനപ്പെട്ട ഹൈക്കോടതിയാണ് ആശ്രയമായിട്ടുള്ളത്. അങ്ങനെയുള്ള ഹൈക്കോടതിയുടെ നിസ്സാരമായ പ്രവൃത്തികളിൽപോലും ജനങ്ങൾക്ക് സംശയമോ ശങ്കയോ ഉണ്ടാവാൻ പാടുള്ളതല്ല. ഹൈക്കോടതിയുടെ നിയമനങ്ങളിൽ ന്യായരഹിതതയുണ്ടെന്നുള്ള സംശയം ജനങ്ങളുടെ ഇടയിൽ പരന്നിരിക്കുന്നത് ഒരിക്കലും ശുഭകരമായിട്ടുള്ളതല്ല. ഹൈക്കോടതിയിൽ രജിസ്ട്രാറെ തിരഞ്ഞെടുത്ത് നിയമിക്കുന്ന സംഗതിയിൽ കായ്യക്ഷമതയോടുകൂടിയ ജോലിനടത്തിപ്പിനുവേണ്ടി അവർക്കു യുക്തമെന്നു തോന്നുന്നവരെ നിയമിക്കാനുള്ള സ്വാതന്ത്ര്യമുണ്ടായിരിക്കേണ്ടതാണെന്ന് മിസ്റ്റർ സുബ്ബയ്യർ സഭയ്ക്കുമുമ്പു പറകയുണ്ടായി. ആ അഭിപ്രായം ന്യായമാണെന്നു സമ്മതിക്കാം. ഹൈക്കോടതി രജിസ്ട്രാറായി ഒരു സീനിയർ മുൻസിഫിനെ നിയമിക്കണമെന്നാണു നിശ്ചയിച്ചിട്ടുള്ളത്. ഒരിക്കൽ ഹൈക്കോടതി രജിസ്ട്രാർജോലി ഒഴിവുവന്നപ്പോൾ ന. ഠ ശ്രീ പാ ശമ്പളമുള്ളതും ന്യായമായ അവകാശിയുമായ ആളെ നിയമിക്കാതെ ർ ഠ ശ്രീ പാ ശമ്പളമുള്ള ഒരു ഡ-ാം ജഡ്ജിയെ നിയമിച്ചു. അതിനു പകരം ജഡ്ജിയായി ന. ഠ ശ്രീ പാ ശമ്പളമുള്ള സീനിയർ മുൻസിപ്പിനെ നിയമിക്കയുംചെയ്യുന്നതാണ് രണ്ടാമതായി രജിസ്ട്രാർജോലി ഒഴിവുവന്നപ്പോൾ നിശ്ചയപ്രകാരമുള്ള

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സീനിയർ മുൻസിഫിനെ അതിലേക്ക് നിയമിക്കാതെ മുമ്പു അ വകാശിയായിരുന്ന രണ്ടാംജഡ്ജിയായി നിയമിച്ചിട്ടുള്ള ആളെയാണ രജിസ്ട്രാർജോലിക്കു നിയമിച്ചിട്ടുള്ളതു്. ഇങ്ങനെയുള്ള നിയമനങ്ങ ളാൽ അനാവശ്യമായി ശമ്പളച്ചിലവുകളെ വർദ്ധിപ്പിക്കുന്നു എന്നു മാ ത്രമല്ല ഈ നിയമനങ്ങളിൽ പലതെ ഉദ്ദേശങ്ങളും അന്തർവിച്ചിട്ടുള്ളതായി ജനങ്ങൾ വിശ്വസിച്ചുപോരികയും ചെയ്യുന്നു.

ഇതുപോലെ മറെറാരു ദൃഷ്ടാന്തംകൂടി പറയാവുന്നതാണ്. ബി.എ. പരീക്ഷാവിജയിയല്ലാത്ത ഒരാൾ ഹൈക്കോടതി മാനേജരായിരുന്നപ്പോൾ അദ്ദേഹത്തെ മറെറാരു ജോലിയിൽ തൽക്കാലത്തേക്കു നിയമിച്ചുവന്ന ഒഴിവിനു അതിന്റെ അടുത്ത സ്ഥാനക്കാരനായ അവിടത്തെ ഹെഡ്ക്ലാ ക്കിനെ ബി. എ. പരീക്ഷാവിജയിയല്ലെന്നുള്ള കാരണത്താൽ അതിലേക്കു നിയമിക്കാതെ അതിന്റെ അടുത്ത സ്ഥാനക്കാരനായ ഒരു ബി.എ ക്കാര നെയാണു നിയമിക്കാൻ ഇടയായിട്ടുള്ളതു. ഈ പ്രവൃത്തിയും അതിന്റെ ഉദ്ദേശവും നല്ലതുതന്നെ എന്നു ഞാൻ സമ്മതിക്കുന്നു. ഇപ്പോൾ ബി. എ. പരീക്ഷാവിജയികളും ബി. എൽ. പരീക്ഷാവിജയികളും ഇവിടെ ധാ രാളമുള്ളപ്പോൾ അവരെ തന്നെയാണ് നിയമിക്കേണ്ടതു്. എന്നു മാത്ര വുമല്ല ഹൈക്കോടതിയിൽ പ്രത്യേകിച്ചും ബി. എൽ. പരീക്ഷാവിജയി കളെ തന്നെയാണ് നിയമിക്കേണ്ടതു്. ഡിപ്യൂട്ടിരജിസ്ട്രാറന്മാരായി ബി. എൽ. പരീക്ഷ വിജയികളെ മാത്രമെ നിയമിക്കാൻ പാടുള്ളു എന്നു ഗവർൺമെൻറിൽനിന്നും നിഷ്കൃഷ്ടിച്ചിരിക്കുമ്പോൾ അതിനു വിരോധമാ യി ആ സ്ഥാനത്തെക്ക് ഒരു അണ്ടർഗ്രാഡ്വേററിനെ നിയമിച്ചിട്ടുള്ളതു് എങ്ങനെയാണെന്നറിയുന്നില്ല. ഗവർൺമെൻറിന്റെ ഉദ്ദേശങ്ങൾക്കു വിപരീതമാണ് ഈ നിയമനമെന്നു മാത്രമല്ലാ ഇങ്ങനെയുള്ള നിയമന ങ്ങൾ ഒരിക്കലും അനുവദിക്കാൻ പാടുള്ളതുമല്ല. എന്നുതന്നെയല്ല ഉ ദ്യോഗനിയമനങ്ങളിൽ മറു ഡിപ്പാർട്ടുമെൻറുകളിൽ എങ്ങനെയെല്ലാം നടന്നുവരുന്നു എന്നിരുന്നാലും ഹൈക്കോടതിയിലെ നിയമനങ്ങളിൽ പ്ര ത്യേകോദ്ദേശങ്ങൾ ഉള്ളതായി ഒരിക്കലും ജനങ്ങൾ സംശയിക്കുന്നതിന ഇടയാക്കാൻ പാടില്ലാത്തതാണ്. നമ്മുടെ ബഹുമാനപ്പെട്ട ഹൈക്കോ ടതിയുടെ നിലയെ പരിരക്ഷിച്ചു കാണേണ്ട ചുമതല എല്ലാജനങ്ങൾക്കും ഉള്ളതുകൊണ്ട് ഇതുയും സംഗതികൾ കൊൺസിലിന്റെ ദൃഷ്ടിയിൽ കൊ ണ്ടുവരുവാൻ ഇടയായിട്ടുള്ളതാണ്. സിവിൽകോടതികളിൽ നടത്തി പോരുന്ന ജോലികളെപറ്റി എന്റെ മാന്യസ്നേഹിതന്മാരിൽ പലരും പറഞ്ഞിട്ടുള്ളതിൽ കൂടുതലായി ഞാൻ പറയണമെന്നുദ്ദേശിക്കുന്നില്ല.

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[Mr. M. N. Pillai.]

MR. TARIATU KUNJITOMMAN (*Muvattupuzha*): ഗവർൺമെൻറു ജനങ്ങൾക്കു സർവ്വോപരി ചെയ്യുകൊടുക്കേണ്ടകാര്യം നീതിന്യായം ശരിയിയിനടത്തികൊടുക്ക എന്നുള്ളതാണ്. ന്യായാസനത്തിൽ നിയമിക്കപ്പെടുന്നവർ ഏറ്റവും കളങ്കമറ്റ യോഗ്യന്മാരായിരിക്കണം. വർഗ്ഗീയപക്ഷപാതത്തിനോ, ധനത്തിനോ, മറ്റുപ്രലോഭനങ്ങൾക്കോ അടിപ്പെടാത്തവരേവേണം ആ സ്ഥാനത്തുവയ്ക്കാൻ. അതു ബാറിൽ നിന്നായാലും ശരി, കീഴിൽ നിന്നായാലുംശരി, സ്വദേശത്തുനിന്നായാലും ശരി, പരദേശത്തുനിന്നായാലും ശരി; ഉത്തമഗുണസമ്പന്നന്മാരേ തന്നെയാണ് ആ സ്ഥലത്തുകയററിവിടേണ്ടതു്. കുറേക്കാലം മുമ്പു ജഡ്ജി സദാശിവയ്യർ—ജനങ്ങളുടെ ഹൃദയത്തിൽ നിന്നും മരിക്കലും മാഞ്ഞുപോകാത്ത ആ ശ്രേഷ്ഠപുരുഷൻ—ഹൈക്കോടതിയെ അലങ്കരിക്ക ഉണ്ടായി അങ്ങനെയുള്ള മഹാന്മഭാവന്മാരെ മറുരാജ്യങ്ങളിൽനിന്നായാലും തിരഞ്ഞെടുത്തുഭവണം ഹൈക്കോടതിയിൽവയ്ക്കാൻ. ഹൈക്കോടതിയെ കീഴ്ക്കോടതിയിലുള്ള ന്യായാധിപന്മാക്കു ഭയവും ശങ്കയും ഉണ്ടായിരിക്കണം. തങ്ങളുടെ അകൃത്യങ്ങളെ മേൽക്കോടതിയിലെന്യായാധിപന്മാർ അറിയുമെന്നും ശാസിക്കുമെന്നും അവക്ക് ഓമ്മയുണ്ടായിരിക്കണമെങ്കിൽ കളങ്കരഹിതമായ ന്യായാധിപന്മാരെ ഹൈക്കോടതിയിൽ വയ്ക്കേണ്ടതാണ്. ഡിസ്ട്രിക്ട് ജഡ്ജിമാക്കും മുൻസിഫ്മാക്കും എല്ലാത്തരം മജിസ്ട്രേട്ടന്മാർക്കും ഹൈക്കോടതിയെ എപ്പോഴും ശങ്കിക്കയും ഭയപ്പെടുകയും, ചെയ്യത്തക്കവണ്ണം ഉത്തമസ്വഭാവന്മാരായ അളുകളെത്തന്നെ ഹൈക്കോടതിയെ അലങ്കരിക്കണം. അങ്ങനെ അല്ലാത്തപക്ഷം രാജ്യത്തിൽ ധർമ്മം നശിച്ചുതുടങ്ങുന്നതിനും അധർമ്മംപ്രബലപ്പെടുന്നതിനും ഇടയാകും. ഇക്കാര്യം ഗവർണ്മെൻറു പ്രത്യേകം ശ്രദ്ധിക്കണം. ഇത്രമാത്രമേ എനിക്കിതിനെപ്പറ്റി പറയാനുള്ളൂ.

MR. M. N. PILLAI (*Trivandrum*): Sir, in supporting this motion, I wish to refer to some irregularities with regard to the appointments made in the High Court. I am sorry to find that the appointments made by the present Chief Justice have given rise to widespread complaint. It is highly regrettable that so much public talk should have been occasioned by one who should have commanded the complete confidence of the public. An analysis of the appointments made by him will show how far the charge of communal partiality attributed to him in this matter is true. When there were other graduate applicants he preferred a Brahmin undergraduate for a certain place. His explanation appears to be that it was an appointment in the undergraduate scale. Sir, when you know that the Chief Justice appointed, in this undergraduate grade, three graduates, one a B. L., along with this undergraduate, the error underlying this explanation would become apparent.

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While there were acting and temporary clerks in the office, the Chief Justice appointed a fresh hand in a *sub. protem* vacancy and his explanation appears from the answer given to my interpellation on it, that that there is no difference between a *sub. protem* appointment and acting or temporary appointment.

PRESIDENT: I do not think you are right. A temporary hand will get full pay.

MR. M. N. PILLAI (*Trivandrum*): A temporary hand will not get promotion in the scale.

PRESIDENT: That is a different matter.

MR. M. N. PILLAI (*Trivandrum*): Is it unknown to this House that in the case of *sub. protem* appointments, the person is entitled to get the scale, while a temporary hand is not so entitled? This is therefore not a valid explanation. The Chief Justice appears not to care much for inconvenient Government circulars. When there was a circular that no fresh hands should be appointed as copyists, so long as there were disbanded men in the department, our Chief Justice who, even without a circular, is expected to do justice, appointed fresh hands in violation of the circular, thereby doing injustice to a large number of disbanded men. Can there be anything more unjust than this in the matter of appointments?

When the Registrar's place fell temporarily vacant twice, the Chief Justice recommended temporary judges on Rs. 400 to the place which carries only a pay of Rs. 350 to Rs. 400 against the G. O. requiring senior Munsiffs to be appointed as Registrars while recommending senior Munsiffs getting Rs. 300 and Rs. 275 to the temporary Judge's place carrying a pay of Rs. 400.

One other point I wish to refer to is about the circuit programme of the vacation Judges. The Government pretend to have misunderstood my interpellation regarding this. The Government say the programme is fixed with reference to previous inspection. My question was why, when two courts that are to be inspected in the same year are close to one another, the vacation Judge, after inspection of one of these courts, goes away to the distant court without proceeding to the other neighbouring court. This system is undesirable. With these words, I support the motion.

MR. A. HOOGEWERF (*Nominated*): "Fools rush in where angels fear to tread." As a layman I fear to enter the precincts of the Temple of Justice—The High Court. I wish, however, to make a few general remarks about the communal question which has been touched upon in this Council. Charity covers a multitude of sins and in the name of efficiency many things are done. I was very glad to hear from the Law Member the clear enunciation of this very difficult question. I fully realise the difficulties of Government in this matter. I am one of those who always try to take a very broad and generous view of communal questions. Communal questions still remain and they have to be faced and solved. I do not want that efficiency

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[Mr. G. Parameswaran Pillai.]

should be sacrificed in the interests of any particular community. Mr. T. K. Velu Pillai spoke of preference. Christians, Mahomedans, Ezhavas and others do not want preferential treatment, except when efficiency is weighed against efficiency. We do not want certainly a Mahomedan, Christian or Ezhava Judge to supersede a Brahmin District Judge to a vacancy in the High Court. What we want is that when there are two District Judges—one a Mahomedan, Christian, or Ezhava and the other a Brahmin or Nair and all the Judges of the High Court are either Brahmins or Nairs,—preference should be given to the Mahomedan, Christian or Ezhava District Judge. I also want to say a word about recruitment to the High Court Judgeship. I was glad to see that the Law Member correctly explain this question also, Say a Munsiff or District Judge who has been recruited from the Bar and who has put in a long service, is a very efficient Judge. Is this Judge, who may be 50 years or so, to be superseded by a member of the Bar? I submit, it will be very hard if this is done.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I wish to make one or two observations on the question of recruitment about which there has been so much discussion in this House. I want to deal particularly with one observation made by Mr. Subba Aiyar in connection with a previous motion as to what was the guiding principle of recruitment to the higher judiciary. It was said that Government fully accepted the principle of selecting members from the Bar to posts in the higher judiciary, when they found capacity and character combined in such members of the Bar. It was also suggested that the local Bar offered a limited sphere for such selection, and that, when such appointments and promotions were made, capacity and character being the guiding principles, it was rather difficult to find members from the Bar who would be so good as members of service.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I never said that—

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): That was the import, at any rate, of his observation. I take serious exception to that. If Mr. Subba Aiyar disclaims the statement, I am satisfied. What was suggested evidently was that choice from the Bar was very limited in spite of there being so many members and therefore Government felt somewhat diffident. If Government do not feel any difficulty, I am satisfied indeed. But in practice, we do not find that principle being accepted or followed. As Mr. K. P. Raman Pillai has said, there have been several strictures passed upon the subordinate judiciary and it will be interesting to investigate what action has been taken by the High Court in regard to the offences of their subordinates. As a matter of fact, we find them in due course promoted. That is a procedure which ought to be set at rest at least hereafter if we wish to secure the efficiency of the judicial administration.

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MR. S. KRISHNA AIYAR (*Mavelikara* cum *Kartikapalli*): I move for a closure.

The motion was duly carried.

PRESIDENT: Mr. Kumara Pillai.

MR. T. KUMARA PILLAI (*Eraniel* cum *Vilavankod*): I have nothing more to add.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I may say one or two words in reply to Mr. Kumara Pillai and Mr. M. N. Pillai. I think I have said enough about the promotion of the Registrar; and in the case of the Manager, I believe the permanent incumbent is one who was appointed very long ago and evidently in order to avoid difficulties in future, perhaps that appointment is now restricted to graduates or graduates in law. Mr. M. N. Pillai has made some insinuations—rather open attacks—against the Chief Justice.

MR. K. P. RAMAN PILLAI (*Quilon*): Are the facts stated by him untrue?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I am coming to that. Mr. M. N. Pillai bases his accusations on three appointments made by the Chief Justice. The first of these is that an undergraduate was appointed in preference to a graduate. To one of the interpellations made by the member, I believe, it was answered that an undergraduate was preferred to a graduate in accordance with a rule passed by Government to that effect. The rule obtaining in the High Court, in the Account Office, and in the Huzur Secretariat is that for an appointment having an undergraduate's scale a graduate should not be appointed.

MR. M. N. PILLAI (*Trivandrum*): I want to know whether there were not graduates appointed in the High Court in the undergraduate scale then?

PRESIDENT: That does not arise.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With reference to the appointments of new copyists when there were supernumeraries in the other departments, I daresay Mr. M. N. Pillai is ignorant of the fact that the High Court have been specially allowed to appoint their own copyists after absorbing all the supernumeraries in the Judicial Department. The High Court need not ascertain whether there are supernumeraries in the other departments before any copyists are appointed. Lastly, with reference to the appointment of a particular individual, there may be ever so many reasons. It was not suggested that the individual promoted is incompetent. Even in the case of other departments, if the head is satisfied with the work of a subordinate officer, he does promote him and he ought to do so. The Chief Justice is the highest judicial officer in the State. About his character and capacity, no doubt can be raised. In making accusations against that officer, one should be very careful. Mr. M. N. Pillai did not care to know that a graduate should not be appointed in an undergraduate

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[Mr. P. K. Narayana Pillai.]

scale. He did not care to know that recruitment of copyists need not be from supernumeraries of other departments. His charge is thus based solely on the promotion given to a particular clerk. I repudiate very strongly the accusations and insinuations made by Mr. M. N. Pillai. I deplore highly that the member should have attributed motives, particularly communal partiality, to the highest Judicial officer of the State, not knowing about the clerk's promotion.

MR. M. N. PILLAI (*Trivandrum*): May I know whether what I said is a fact or not?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is a matter for regret that Mr. M. N. Pillai should have descended to this level of attributing partiality to the Chief Justice. Decorum requires that an unfounded accusation should not be made and that the character of the highest judicial officer should not be so lightly dealt with and so easily impugned upon flimsy grounds. I leave it at that.

Passing on to the remarks of Mr. G. Parameswaran Pillai about the recruitment from the Bar, I may say that I am proud to belong to the Bar and I am still a practising member of it. I should, therefore, be the very last person to say that there is no member of the Bar who possesses the requisite capacity and character to be elevated to be the judge of a High Court. What I did say was that, if a judicial officer has requisite capacity and character and service, and has legitimate claims for being promoted as Judge of the High Court, it will be cruel to ignore his long service and qualifications, and supersede him.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether there may not be a continuity of such officers for ever?

MR. V. SUBBA AIYAR (*Additional Sirkar Head Vakil*): We cannot prophesy about it. Each particular case will have to be considered when it arises. But I may assure the House that the Government will devote their very serious consideration to recruitment whenever a vacancy occurs.

Motion 203.

The following motion was not made:—

MR. K. P. RAMAN PILLAI:

203. To omit the allotment of Rs. 12,540 for temporary clerks, etc., for Judges' Courts.

Motion 204.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The matter has been sufficiently discussed when we considered the question of the continuance of the Third Bench in the High Court. I sent in this motion as a matter of protest against the appointment of temporary clerks. The motion has been aimed at the temporary District Judges and their staff. As the matter has been discussed threadbare, I do not wish to make the motion.

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The following motion was not moved :—

MR. P. K. NARAYANA PILLAI :

204. To reduce the allotment of Rs. 12,510 for temporary clerks, etc., for Judges' Courts by Rs. 6,270.

Motion 205.

The following motion was not moved:

MR. K. P. RAMAN PILLAI :

205. To omit the allotment of Rs. 20,304 for temporary clerks, etc., for Munsiffs' Courts.

Motion 206.

MR. T. M. CHIDAMBARATANU PILLAI (*Kal'nlam cum Tovala*) : Sir, I beg to make the following motion :—

206. To reduce the allotment of Rs. 20,304 for temporary clerks, etc., for Munsiffs' Courts by Rs. 10,152.

நீதிஸ்தாயக் கோர்டுகளில் குடிசகள் அதிகமாக கிடக்கிறதென்றும் முன் இந்த ஜட்ஜிகள் போராமல் கூடுதலாக ஜட்ஜிகளும் முனிஸிப்புகளும் நியமித்திருக்கிறது. கோர்டுகள் கூடக்கூட கேஸுகளும் கூடிக் கொண்டே வருகிறது. தவிரவும் ஒரு ஜட்ஜியிருந்த இடத்தில் தானே கூடுதல் ஜட்ஜியும் ஒரு முனிஸிப் இருந்தயிடத்தில் தானே கூடுதல் முனிஸிப்பும் நியமித்திருக்கிறது. பின்னுக்கும் குடிசகள் கூடுதலாயி வர்த்தனை செய்கிறது. அதும் போராமல் கூடுதலாக சர்க்காலம் மு னிஸிப்புகளும் நியமிக்கிறதாக தெரிகிறது. குடிசகள் வருகிற காரி யம் என்னவென்று தெரியவில்லை. உத்தியோகஸ்தன்மார்களுடைய சௌகரிய குறவினுலோ அல்லது ஜனங்களுடைய கஷ்டத்தினுலோ தெரியவில்லை. இதினல் கவர்ண்மென்றுக்கு கஷ்டமும் ஜனங்களுக்கு கஷ்டமும் ஏர்ப்பட்டுக்கொண்டே வருகிறது. இப்போது தோவாளை, அகஸ்தீஸ்வரம் இரண்டு தாலூகாவுக்கு நாகர்கோவிலில் இரண்டு முனி ஸிப்பும் கல்க்குளம், இணியல் இரண்டுக்கும் தக்கலையில் இரண்டுமுனிஸி ப்புகோர்டுகளும் நியமித்திருக்கிறது. இந்த இரண்டு ஸ்தலத்திலுள்ள முனிஸிப்பு கோர்டுகளுக்கும் கசேரிகள் 10, 12 மயில் தூரத்திலிருந்து வ ந்து சேம்பவும் புத்திமுட்டு அடையவேண்டியதாயிருக்கிறது. தவிரவும் தோவாளையில் முன்னுலே, பிரண்டியரில் ஒரு மஜிஸ்ட்ரேட்டு கோர்டும், மால மஜிஸ்ட்ரேட்டு கோர்டு ஒன்று அழகியபாண்டியபுரத்திலும், தா லூக்கு மஜிஸ்ட்ரேட்டு கோர்டு ஒன்று பூதப்பாண்டியிலும் அதே மூ ன்று மஜிஸ்ட்ரேட்டு கோர்டும் உண்டாயிருந்த இடத்தில் பின்னிடு ஒரு மஜிஸ்ட்ரேட்டு கோர்ட்டும் ஏர்ப்பட்டிருக்கிறது. இப்போது அது மில்லை. எல்லாத்திர்க்கும்கூடி ஒன்றுயிட்டு கோட்டார் மஜிஸ்ட்ரேட் கோர்ட்டைத்தான் நியமித்திருக்கிறது. அதுபோலவே இணியலில் ஒருமஜிஸ்ட்ரேட்டும், கல்க்குளத்தில் ஒரு மஜிஸ்ட்ரேட்டும், திருவட்டா ற்றில் ஒரு மஜிஸ்ட்ரேட்டும் உண்டாயிருந்தது. அதுகளையும் நிறுத்தி இணியலில் தானே ஒரு மஜிஸ்ட்ரேட்டு கோர்டு வைத்திருக்கிறது.

அதினுல் ஜனங்களுக்கு சேம்பவும் கஷ்டமும் நஷ்டமும் ஏர்ப்ப ட்டுகொண்டே வருகிறது. அதினுடைய நிவர்த்திக்காக கூடுதல் முனி

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[Mr. V. Subba Aiyar.]

ஸிப்புமாரை நியமிக்கிறதில் மஜிஸ்ட்ரேட்டு கோர்ட்டுயிருந்து இப்போது இல்லாமலிருக்கிற இடங்களில் முனிஸிபு மஜிஸ்ட்ரேட்டு கோர்ட்டு நியமிக்கிறதாயிருந்தால் கவர்ண்மென்றுக்கு லாபமும் ஜனங்களுக்கு கஷ்டநிவர்த்தியும் உண்டாகுமே.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I was not quite able to follow Mr. Chidambaratanu Pillai.

PRESIDENT: He said that since there were not sufficient number of Magistrates' Courts in some taluks it would be better to have Munsiffs' Courts there. I think that was what you said, Mr. Chidambaratanu Pillai?

MR. T. M. CHIDAMBARATANU PILLAI (*Kalkulam* cum *Tovala*): I want the number of temporary Munsiffs to be reduced.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): With reference to the reduction of the number of temporary Munsiffs, I may say, Sir, that the quantity of work turned out by the Munsiffs has not been on the increase. But it is explained that they have been attending to very old cases and therefore it was that they were not in a position to dispose of as many cases as they could possibly have done otherwise. I am perfectly willing to concede that the total number of cases disposed of by the Munsiffs is not as many as this House would expect of them.

MR. K. P. RAMAN PILLAI (*Quilon*): May I know from the Law Member whether the number of suits instituted was also not decreasing year by year?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No, no. But in 1092 and 1094, there were very many suits filed; consequently there were arrears, and those arrears have not even yet been cleared; and until the arrears are cleared off, the number of suits filed in any particular year will not be any criterion for the continuance of the temporary Munsiffs. I may say that, so far as Travancore is concerned, our Munsiffs have been disposing of on an average 2,000 cases a year.

MR. K. P. RAMAN PILLAI (*Quilon*): Has not the average been steadily decreasing from 1097?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. That is because they were tackling the old cases. The number must necessarily go down. In British India the number has never exceeded 2,000; in Mysore the average disposal of a Munsiff is only 1,500 cases. Our Munsiffs therefore are disposing of more cases; and; as far as possible, they are trying to get through old cases also every year. The particular point which Mr. Chidambaratanu Pillai has pressed will, I may assure the Council, be particularly brought before the notice of the High Court and they will be requested to take the necessary steps to expedite the disposal of the cases with a view to reduce the number pending. At present there is a very large number of cases pending, and

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without the continuance of the temporary Munsiffs it may not be possible to dispose of them. One thing has to be said to the credit of the Munsiffs, viz.: that, though they have not been doing as much work as they ought to in the matter of disposal of cases, they are doing good work in execution and are looking into the matter of the decrees being executed as early as possible and money realised. In 1093, they disposed of 83,601 applications, in 1096, 89,139 cases and in 1097, 88,165. The amount of money realised was Rs. 14,91,269 in 1093 and in 1097 it amounted to Rs. 24,65,196.

MR. K. P. RAMAN PILLAI (*Quilon*): May I ask Mr. Subba Aiyar, regarding the quality of work turned out by the Munsiffs, whether the percentage of reversals is not on the increase?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That is on account of the reduction in the number of cases disposed of. If the cases handled by the Munsiffs are very tough, there is a chance of the appellate court taking a different view and the decisions reversed by the appellate court. If the number of appeals be larger, then the percentage of such reversals will be smaller.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Might it not also be due to the inferior work turned out by the temporary Munsiffs?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May be. Munsiffs are only human beings and there is a difference between different Munsiffs. We cannot expect the same quality from all Munsiffs We have been appointing Munsiffs from various communities, and even in the same community human nature varies with each individual and we cannot expect all the Munsiffs to possess the same capacity.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Is it not possible to devise a better system of selection?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The selection is entirely vested in the High Court and I believe they will sufficiently safeguard the interests of the public. Many wanted a Selection Board for recruitment to the public service and we have such a Board in the High Court.

MR. K. P. RAMAN PILLAI (*Quilon*): May I know, Sir, whether they are not selecting Munsiffs on a communal basis?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The matter is wholly left to the High Court. If they think that a particular individual is well qualified, they appoint him.

MR. M. R. MADHAVA VARIAR (*Chengannur* cum *Pattanamtitta*): Can the Government give any direction to them on the principle of recruitment?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It is open to them to lay down any principle.

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[Mr. K. P. Raman Pillai.]

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether Government have not already laid down certain principles?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I must confess my ignorance of that matter. Seeing that the recruitment is entirely left to the High Court, there need not be any alarm.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Does it follow, from the fact that more money is realised in a particular year by the execution of decrees, that the suits are more valuable?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May be that. So far as the Munsiffs are concerned, they can dispose of suits the value of which is not over Rs. 2,000.

MR. K. P. RAMAN PILLAI (*Quilon*): Sir, the Law Member has been telling us that the High Court is entirely responsible for the recruitment of Munsiffs. In return, I have to tell him that the tax-payer is responsible for his payment.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No, it is not correct. It is not the taxpayer but the litigant.

MR. K. P. RAMAN PILLAI (*Quilon*): I have absolutely no objection to accept it if he persists in the correction. But I must tell him that, as the representatives of the taxpayers, we have got a right to question whether, out of their hard-earned money, so many of these Munsiffs should be maintained. But for the official block which the Law Member is sure of, he would not have manipulated these figures in the fashion he has done. He has told the House that the disposal of suits by the Munsiffs has not been encouraging at all. He has also admitted that the institution of suits has gone down. You will find, from the statistics of 1094 to 1097, that the number of suits instituted in the Munsiffs' Courts has gone down from 75,000 to 64,000. That simply shows that these Temporary Munsiffs want only to stick on. They know very well which side of their bread is buttered. If they dispose of suits very speedily, they know the work they do will come to an end. We know what the High Court are doing. They do not care to see whether the vakils recruited as Munsiffs have conducted any original suits. The aspirants for Munsiffs' places are sure that the High Court will look to their case when the communal turn comes up. He is therefore recruited as a Munsiff and his business is only to stick on. A careful study of the statistics will reveal a painful matter to the taxpayer. Not only has the number of suits gone down, but the disposal too has gone down. The average is therefore very low. In the face of these facts how can the Law Member come to us and say that, unless he has got the strength of the official members on his side, the age of suits is also steadily on the decrease. It is on the increase. So also the average duration in the disposal of suits is also on the increase.

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Regarding the quality of work, the Law Member has said that they are handling more complicated cases. I would like to refer to some statistics. But there is very little time at our disposal.

PRESIDENT: The time has already run out.

MR. K. P. RAMAN PILLAI (*Quilon*): The quality of work is also going down. The percentages of reversals ranged from 29 to 32 in a year. And in spite of all these figures, if the Law Member tells us that the temporary Munsiffs are necessary, of course there is no helping it.

PRESIDENT: The time allotted is over. You have to close.

As for the official block, I may assure Mr. Raman Pillai that there are only 15 officials against 35 non-officials.

MR. K. P. RAMAN PILLI (*Quilon*): I have to shamefully admit that.

The motion was by leave withdrawn.

Motions 207 to 235.

The following motions lapsed as the time allotted for the Demand had expired:

MR. P. K. NARAYANA PILLAI:

207. To reduce the allotment of Rs. 20,304 for temporary clerks, etc., for Munsiffs' Courts by Rs. 10,152.

MR. K. P. RAMAN PILLAI:

208. To omit the allotment of Rs. 4,320 for 24 temporary copyists for Munsiffs' Courts.

MR. S. KRISHNA AIYAR:

209. To reduce the allotment of Rs. 4,86,415 for Civil and Sessions Courts by Rs. 9,600.

MR. K. P. RAMAN PILLAI:

210. To reduce the allotment of Rs. 4,86,415 for Civil and Sessions Courts by Rs. 100.

MR. G. PARAMESVARAN PILLAI:

211. To reduce the allotment of Rs. 4,86,415 for Civil and Sessions Courts by Rs. 100.

MR. K. P. RAMAN PILLAI:

212. To reduce the allotment of Rs. 800 for petty construction and repairs by Rs. 400.

MR. K. P. RAMAN PILLAI:

213. To omit the allotment of Rs. 500 for purchase and repair of furniture.

MR. K. P. RAMAN PILLAI:

214. To reduce the allotment of Rs. 900 for office expenses and miscellaneous by Rs. 500.

MR. K. P. RAMAN PILLAI:

215. To reduce the allotment of Rs. 81,200 for Criminal Courts by Rs. 100.

MR. J. JOHN NIDIRY:

216. To reduce the allotment of Rs. 81,200 for Criminal Courts by Rs. 100.

MR. G. PARAMESVARAN PILLAI:

217. To reduce the allotment of Rs. 81,200 for Criminal Courts by Rs. 100.

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[Mr. S. Krishna Aiyar.]

MR. K. P. RAMAN PILLAI:

218. To reduce the allotment of Rs. 575 for office expenses and miscellaneous by Rs 300.

MR. K. P. RAMAN PILLAI:

219. To omit the allotment of Rs. 700 for contingencies in connection with the separation of the classes for the Pleadership course.

MR. S. KRISHNA AIYAR:

220. To reduce the allotment of Rs. 3,074 for supplies, servic s and contingencies by Rs. 2,000.

MR. M. R. MADHAVA VARIAR:

221. To reduce the allotment Rs. 3,074 for supplies, services and contingencies by Rs. 2,000.

MR. A. HOOGEWERF:

222. To reduce the allotment of Rs. 9,046 for Law College and Hostel by Rs. 8,000.

MR. G. PARAMESVARAN PILLAI:

223. To reduce the allotment of Rs. 9,046 for Law College and Hostel by Rs. 100.

MR. K. P. RAMAN PILLAI:

224. To reduce the allotment of Rs. 9,046 for Law College and Hostel by Rs. 100.

MR. J. JOHN NIDIRY:

225. To reduce the allotment of Rs. 9,046 for Law College and Hostel by Rs. 100.

MR. M. R. MADHAVA VARIAR:

226. To omit the allotment of Rs. 1,260 for temporary establishment for temporary Sirkar Vakils.

MR. K. P. RAMAN PILLAI:

227. To omit the allotment of Rs. 3,000 for fees to vakils.

MR. K. P. RAMAN PILLAI:

228. To omit the allotment of Rs. 300 for hot weather charges.

MR. K. P. RAMAN PILLAI:

229. To reduce the allotment of Rs. 550 for office expenses by Rs. 300.

MR. S. KRISHNA AIYAR:

230. To reduce the allotment of Rs. 30,410 for law officers by Rs. 17,701.

MR. K. P. RAMAN PILLAI:

231. To reduce the allotment of Rs. 30,410 for law officers by Rs. 100.

MR. G. PARAMESVARAN PILLAI:

232. To reduce the allotment of Rs. 30,410 for law officers by Rs. 100.

MR. N. PADMANABHA PILLAI:

233. To reduce the total allotment of Rs. 7·24 lakhs under Demand IX by Rs. 100.

MR. M. R. MADHAVA VARIAR:

234. To reduce the total allotment of Rs. 7·24 lakhs under Demand IX by Rs. 100.

MR. S. KRISHNA AIYAR:

235. To reduce the total allotment of Rs. 7·24 lakhs under Demand IX by Rs. 100.

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PRESIDENT: I now place Demand IX—Administration of Justice—for Rs. 7·24 lakhs for the vote of the House. I hope the House sanctions it.

MR. K. P. RAMAN PILLAI (*Quilon*): No, Sir, I am against it. I press for a division.

PRESIDENT: There has been no cut and it is not a matter for vote. I take it that the House sanctions the Demand entirely.

The grant was made.

DEMAND X—CENTRAL PRISON.

MR. R. KRISHNA PILLAI (*Chief Secretary to Government*): Sir, I beg to move for the vote of the House for a grant not exceeding Rs. 82,000 under Demand X—Central Prison.

Motions 236 to 238.

The following motions were not made:—

MR. K. P. RAMAN PILLAI:

236. To reduce the allotment of Rs. 2,000 for the upkeep of fire engine by Rs. 1,500.

MR K. P. RAMAN PILLAI:

237. To omit the allotment of Rs. 250 for purchase and repair of machines.

MR. K. P. RAMAN PILLAI:

238. To reduce the allotment of Rs. 500 for office expenses and miscellaneous by Rs. 400.

Motion 239.

MR. K. P. RAMAN PILLAI (*Quilon*): I beg to move the following motion:—

239. To reduce the allotment Rs. 300 for honorarium to moral instructor by Rs. 5.

My desire is to ascertain from the Government side the sort of moral instruction that is being given, the nature of the instruction, and so forth.

MR. R. KRISHNA PILLAI (*Chief Secretary to Government*): Sir, instruction in morals and religion is given in the Central Prison once a week, *i. e.*, on Sunday, by the members of the Salvation Army and another gentleman, Mr. K S. Narayana Aiyar.

MR. K. P. RAMAN PILLAI (*Quilon*): Do the Government contemplate cutting out their punishment and handing over the prisoners to the Salvation Army if they undertake to look after them?

MR. R. KRISHNA PILLAI (*Chief Secretary to Government*): No.

REV. FR. KURIAKOSE VETTIKKPALLI (*Todupuzha* cum *Kunnatnad*): Is it compulsory on the prisoners that all of them should attend the instruction?

MR. R. KRISHNA PILLAI (*Chief Secretary to Government*): It is not obligatory on them to attend.

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